

Approved 4-2-90
Date

MINUTES OF THE House COMMITTEE ON Appropriations

The meeting was called to order by Bill Bunten Chairperson at

7:30 a.m./~~pm~~ on March 2, 1990 in room 514-S of the Capitol.

All members were present except: All present.

Committee staff present: Ellen Piekalkiewicz, Debra Duncan, Kathy Porter
Legislative Research Department
Jim Wilson, Revisor of Statutes
Sharon Schwartz, Administrative Aide
Sue Krische, Committee Secretary

Conferees appearing before the committee:

Paul D. Handy, Administrative Judge, 25th Judicial District
Paul Shelby, Assistant Judicial Administrator, Office of
Judicial Administration
Nancy Lindberg, Assistant to Attorney General Robert Stephan
Ed Martin, Director, Architectural Services
Judy McConnell, Executive Director, Kansas Corporation Commission
Gary Stotts, Department of Corrections

Others attending: See attached list.

INTRODUCTION OF BILLS

Representative Helgerson requested introduction of a bill prohibiting the lease of certain real property by state agencies (Attachment 1). He stated this bill addresses his concern that sometimes when the state is trying to purchase a building, a private investor may purchase the building and attempt to lease it back to the state at a greater cost to the state. Representative Helgerson also requested introduction of a bill regarding the State Historical Society and the non-profit Historical Society, Inc. clarifying and redefining the duties of each. Representative Helgerson moved introduction of the bills. Representative Francisco seconded. Motion carried.

Chairman Bunten appointed a subcommittee of Representative Vancrum, Chairman, Representative Moomaw, and Representative Teagarden to study HB 2867--the Governor's spending lid bill--and make recommendations to the Committee as soon as possible.

HB 2618 - Appropriations for FY91, MH and MR Institutions.

LARNED STATE HOSPITAL

Representative Mead reviewed the subcommittee report for FY90 and FY91 (Attachment 2). Representative Mead moved adoption of the subcommittee report. Representative Wisdom seconded. Motion carried.

OSAWATOMIE STATE HOSPITAL

Representative Lowther reviewed the subcommittee report for FY90 and FY91 (Attachment 3). Representative Lowther advised that the agency is confident it can hire the authorized 26 limited-term FTE positions, including six RN III positions. Representative Teagarden cited the possibility that Osawatomie State Hospital will be decertified if the deficiency in RN's is not addressed promptly. Representative Teagarden moved to amend the FY91 subcommittee report to add an item asking the Senate subcommittee to study and compare the staffing ratios at all the mental health hospitals. Representative Wisdom seconded. Motion carried. Representative Brady pointed out

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Appropriations

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that \$465,000 for LPN salary increases from the Department of Administration budget was to be distributed in all the budgets which include LPN positions. Staff advised that this will be done in the Senate when the proper distribution is determined. Representative Lowther moved adoption of the subcommittee report for FY90 and FY91, as amended. Representative Mead seconded. Motion carried.

The Chairman announced the Committee would move to the hearing on HB 2870 to accommodate a conferee who travelled a long distance.

HB 2870 - Creating a district magistrate judge position in Finney county.

Representative Heinemann explained that HB 2870 creates a new district magistrate judge position in Finney County located in the 25th Judicial District. There are currently five magistrate judges in the 25th Judicial District, but none of them are assigned to Finney County.

Paul D. Handy, Administrative Judge, 25th Judicial District, testified that 7,655 magistrate-level cases were filed in 1989 in Finney County (Attachment 4). Judge Handy indicated the cost of an additional magistrate judge is approximately \$40,000 annually.

Paul Shelby, Assistant Judicial Administrator, Office of Judicial Administration, appeared in opposition to HB 2870 (Attachment 5). He stated no request was made to the Office of Judicial Administration for an additional magistrate judge in Finney County, so this has not been considered by the Court. The Court does not feel this request is justified by caseload measures or needs of the district. In response to a question, Mr. Shelby stated the Court would not oppose a bill to repeal the law requiring a judge in every county.

Following the hearing on HB 2870, the Committee returned to subcommittee reports on HB 2618.

RAINBOW MENTAL HEALTH FACILITY

Representative Wisdom reviewed the subcommittee report for FY90 and FY91 (Attachment 6). Representative Wisdom moved adoption of the subcommittee report. Representative Mead seconded. Motion carried.

TOPEKA STATE HOSPITAL

Representative Lowther reviewed the subcommittee report for FY90 and FY91 (Attachment 7). Representative Shriver expressed concern at the wording of the FY90 report regarding the Licensed Mental Health Technician (LMHT) training class. Representative Lowther noted the cancelled class, or a smaller one, could be started up with the \$234,768 the Subcommittee restored to the agency's FY90 budget.

Representative Francisco moved to amend the FY90 subcommittee report to state that the House Committee supports in-house training of LMHT's and believes the training should receive high priority for being continued. Representative Teagarden seconded. Motion carried.

Representative Shriver moved to strike the word "baccalaureate" from item 1 of the FY91 subcommittee report on Topeka State Hospital. Representative Mead seconded. Motion carried.

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room 514-S, Statehouse, at 7:30 a.m./~~p.m.~~ on March 2, 1920.

Representative Turnquist moved to delete item #1 in the FY91 subcommittee report which describes the tuition assistance program set up by the agency for LPN's to acquire RN degrees until a systemwide decision can be made on this program. Representative Helgerson seconded. Motion failed. Representative Lowther moved adoption of the subcommittee report on Topeka State Hospital for FY90 and FY91, as amended. Representative Mead seconded. Motion carried.

Representative Brady moved to amend the subcommittee reports on all the mental health hospitals to reflect the Committee's support for the Governor's recommendation for salary increases for LPN's and asks the Senate Subcommittee to review this issue and distribute the \$465,000 removed from the Department of Administration budget for this purpose. Representative Teagarden seconded. Motion carried.

HB 3009 - State architectural services, negotiating committees, convened, project.

Nancy Lindberg, Assistant to Attorney General Robert Stephan, appeared in support of HB 3009 which she indicated was requested for introduction by the Attorney General on behalf of his Committee on Daycare (Attachment 8). Under current law, in the case of a construction project costing in excess of \$250,000, the Secretary of Administration must convene a negotiating committee to arrange for the design work to be done by a contractor. HB 3009 raises this limitation to \$500,000.

Ed Martin, Director, Architectural Services, testified in support of HB 3009 stating there would be about 12 projects a year that would fall in the range of this bill and the bill would save considerable staff time for architectural services. Representative Kline moved that HB 3009 be recommended favorably for passage. Representative Heinemann seconded. Motion carried.

HB 3025 - Fees for natural gas pipeline inspection and safety supervision.

Judy McConnell, Executive Director, Kansas Corporation Commission, explained that HB 3025 would provide that rates charged by the Kansas Corporation Commission (KCC) for inspection and supervision of natural gas pipelines be prescribed by rules and regulations rather than set in statute. The bill was requested by the House Subcommittee on the KCC. Representative Chronister moved that HB 3025 be recommended favorably for passage. Representative Hoy seconded. Motion carried.

SB 497 - Disposal of Department of Corrections surplus property.

Gary Stotts, Department of Corrections, explained that SB 497 authorizes the Director of Kansas Correctional Industries to offer state surplus property to the public after it has been made available to eligible entities for 30 days changing from 60 days in current law (Attachment 9). Representative Kline moved that SB 497 be recommended favorably for passage. Representative Francisco seconded. Motion carried.

HB 2669 - State agency office and storage space requirements.

Representative Fuller's subcommittee studied the provisions in HB 2669 and submitted to the Committee a balloon of proposed amendments to the bill (Attachment 10). HB 2669 amends existing statutes to require each state agency to include in its annual

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Appropriations

room 514-S, Statehouse, at 7:30 a.m./~~p.m.~~ on March 2, 1990.

budget submission its office and storage requirements for the current, second, third, and fifth fiscal year following. The balloon changes some of the out-year requirements that could not be met. Representative Kline moved that HB 2669 be amended as proposed in the balloon and the bill be passed as amended. Representative Francisco seconded. Motion carried.

Chairman Bunten turned to final action on HB 2797 which allows the Secretary of Administration to lease real estate to the city of Lansing for a period of five years instead of 15 years as in current law. Representative Chronister moved that HB 2797 be recommended favorably for passage. Representative Heinemann seconded. Motion carried.

The meeting was recessed at 9:55 a.m. and Chairman Bunten announced the Committee will reconvene to consider HB 2586--Mental Health Reform upon adjournment of the House.

Vice-Chairman Chronister reconvened the meeting at 12:15 p.m. Representative Goossen distributed a balloon of proposed amendments to HB 2586--the Mental Health Reform Act (Attachment 11). Representative Helgerson explained that this proposal has the support of a coalition of providers and consumers of mental health services. He stated the bill is geared for consumers and recognizes the need for a coordinated system with emphasis on community services. A key component of the bill is the idea of gatekeeping or screening of individuals being admitted to state hospitals. The program targets two populations--children/adolescent and persons with severe and persistent mental illness. A phased-in approach is recommended in one catchment area at a time.

Representative Goossen stated the fiscal note on the bill for FY91 will be from \$1-1.5 million. Representative Vancrum questioned the meaning of "mostly" in New Section 5--#5 regarding the council. Representative Helgerson stated "mostly" could be changed to "a majority" to express the intent.

Representative Hamm moved approval of the minutes of February 6, 8, 13, and 14 as presented. Representative Teagarden seconded. Motion carried.

Vice-Chairman Chronister turned to final action on HB 2859 establishing the Heritage Trust Fund. Representative Helgerson distributed a balloon of proposed amendments to HB 2859 (Attachment 12) and an amendment regarding some criteria to be used in evaluating worthy projects (Attachment 13). Representative Solbach expressed concern about restricting the funds from being used on property owned by the state or federal government. Representative Solbach moved adoption of the proposed amendments to HB 2859. Representative Fuller seconded. Motion carried. Representative Vancrum opposes the mortgage registration tax proposed as the funding mechanism in this bill. Representative Vancrum made a motion to table HB 2859. Representative Moomaw seconded. Motion failed. Representative Fuller moved that HB 2859, as amended, be recommended favorably for passage. Representative Helgerson seconded. Motion carried.

The meeting was adjourned at 1:15 p.m.

GUEST LIST

COMMITTEE: HOUSE APPROPRIATIONS

DATE: 3-2-90

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
Paul Shelby	Topeka	OJA
Jerry Sloan	"	OJA
Mike Bahnhoff	Topeka	Div. of Budget
MIKE WOSCIEN	TOPEKA	DOB
W. Kennedy	"	"
Lori Class	Topeka	Mental Health Assoc. in KS
Jerry Larson	Topeka	Kansas Alliance for 100 Mentally Ill
Tom Strubler	Manhattan	KAP S
Richard Parkentz	Topeka	Ks. State Hist. Soc.
Ramon Pauer	Topeka	Ks. Stat. Hist. Soc.
Nancy Lindberg	Topeka	H. Gen. Office
Bob Clawson	Topeka	SRS
Mami Lee	Topeka	SRS
Al Nemes	Topeka	SRS / MARS
Larry Hinton	Topeka	SRS
Chris Stanfield	Topeka	SRS
James W. Thomas	Topeka	NAACP - EST
Ed Martin	Topeka	Div. of Arch. Services
George D. Vega	Topeka	SRS / MARS
Paul M. Kibb	Topeka	Assoc. of Am. Ks. Inc.
Robert C. Harder	Topeka	Mc Gill & Assoc.
Julius D. Powell	Topeka	KCC
David Downing	Topeka	Chap. 100
Doug Bowman	"	Children & Youth Homeless
Chuck Engel	Topeka	Orthopedic Services

BILL NO. _____

AN ACT prohibiting the lease of certain real property by state agencies under certain circumstances.

Be it enacted by the Legislature of the State of Kansas:

Section 1. (a) Whenever the secretary of administration has made an offer to purchase any real property for the fair market value of such property and such property is not subsequently purchased by a state agency, no state agency shall lease such real property for a period of 10 years from the date of such offer.

(b) As used in this section:

(1) "Fair market value" means the appraisal amount determined by three appraisers appointed by the judicial administrator pursuant to K.S.A. 75-3043a and amendments thereto or the average of the three appraisal amounts if such appraisers do not agree on a single appraisal amount.

(2) "Offer" means a written offer tendered by the secretary of administration and includes offers that are contingent upon obtaining appropriations or satisfactory financing within a reasonable time not to exceed 12 months.

(3) "State agency" means any state office or officers, department, board, commission, institution, bureau or any other agency of any branch of state government or any state authority or instrumentality.

Sec. 2. This act shall take effect and be in force from and after its publication in the Kansas register.

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Attachment 1

SUBCOMMITTEE REPORT

Agency: Larned State Hospital

Bill No. 2729

Bill Sec. 26

Analyst: Porter

Analysis Pg. No. 612

Budget Pg. No. 394

<u>Expenditure Summary</u>	<u>Agency Req. FY 90</u>	<u>Governor's Rec. FY 90</u>	<u>Subcommittee Adjustments</u>
State Operations:			
State General Fund	\$ 26,499,564	\$ 25,932,059	\$ --
General Fees Fund	1,935,331	1,935,331	245,411
Title XIX Fund	1,281,249	1,138,543	--
Other Funds	68,400	68,400	--
Subtotal	<u>\$ 29,784,544</u>	<u>\$ 29,074,333</u>	<u>\$ 245,411</u>
Capital Improvements:			
State Institutions			
Building Fund	\$ 1,433,675	\$ 798,234	\$ --
State General Fund	--	--	--
Subtotal	<u>\$ 1,433,675</u>	<u>\$ 798,234</u>	<u>\$ --</u>
GRAND TOTAL	<u><u>\$ 31,218,219</u></u>	<u><u>\$ 29,872,567</u></u>	<u><u>\$ 245,411</u></u>
FTE Positions	937.1	936.1	--
Average Daily Census	535	520*	--

* The Governor does not recommend an average daily census for the hospital's 15-bed adult admissions unit.

Agency Request/Governor's Recommendation

Larned State Hospital estimates FY 1990 operating expenditures to be \$29,784,544, an increase of \$291,937 from the amount appropriated by the 1989 Legislature. Funding includes \$26,499,564 from the State General Fund, \$1,935,331 from Larned's fee fund, \$1,281,249 from federal Title XIX funds, and \$68,400 from federal Chapter I funds. The \$291,937 supplemental request would be financed from the State General Fund and is intended to fund a portion of the hospital's estimated \$651,054 salaries and wages shortfall, which the hospital attributes to physician salary adjustments, longevity pay, and other factors.

Only a portion of the hospital is certified by the federal Health Care Financing Administration (HCFA) and is eligible to receive full federal Medicare and Medicaid funding. Following a March 4, 5, and 6, 1987, survey, HCFA officials found that, while many program elements were of high quality, there was an insufficient number of Registered Nurses (RNs) at the hospital. The hospital was found to be out of compliance with respect to nursing services. In response to the deficiency, the hospital requested 25 RNs for the required plan of correction. Governor's Budget Amendment No. 4 recommended the addition of seven RNs and the 1987 Legislature concurred. On March 28 and 29, 1987, surveyors returned to Larned, conducted a revisit survey, and found that the hospital continued to be out of compliance in the area of nurse staffing. Larned received notification that the hospital would be decertified as of October 30,

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Attachment 2*

1987, and therefore would lose all federal Medicare and Medicaid funds. In an attempt to retain certification for the units of the hospital which generate the majority of the Medicare and Medicaid funds (i.e., the 15-bed admissions unit, the 24-bed Adult Individual Modification Unit, the 17-bed children's unit, and the 26-bed adolescent unit), the hospital shifted 13 RNs from other areas of the hospital to these four units. A HCFA survey team returned to Larned for a special revisit and certified the four units as a "distinct part" of the hospital which is eligible for Medicare and Medicaid funding. A HCFA survey team returned to Larned in September 1988 and surveyed only the four-unit "distinct part." The same four units were recertified.

The hospital anticipates that its new 90-bed Adult Treatment Facility will be completed and ready for patient occupancy in February or March, 1990. The facility will replace Rush and Pinel Buildings, which have housed the hospital's adult patients. The hospital plans, on a temporary basis, to use Rush Building for adolescent programs and will use Pinel Building for Youth Center at Larned (YCAL) programs.

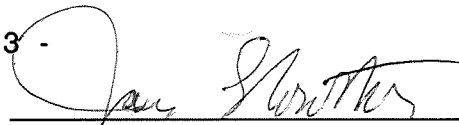
The Governor recommends an FY 1990 total operating budget of \$29,074,333, a decrease of \$710,211 from the agency estimate and a decrease of \$418,274 from the amount approved for FY 1990 by the 1989 Legislature. The recommendation includes funding of \$25,932,059 from the State General Fund, \$1,935,331 from the hospital fee fund, \$1,138,543 from the Title XIX fund, and \$68,400 from federal Chapter I funds.

House Subcommittee Recommendations

The House Subcommittee concurs with the Governor's recommendations with the following adjustments:

1. Increase the expenditure limitation of the hospital fee fund by \$245,411, from \$1,935,331 to \$2,180,742. The Subcommittee notes that the Governor's recommendation of \$29,074,333 for FY 1990 operating expenditures is a decrease of \$710,211 from the agency estimate and a decrease of \$418,274 from the amount approved by the 1989 Legislature. Although the hospital has taken steps to contain expenditures for FY 1990, the Subcommittee concurs with the agency that essential services will be jeopardized without the fee fund increase. Included in the \$245,411 fee fund expenditure limitation increase is \$31,708 for food for the hospital's patients, \$25,647 for pharmaceutical and lab supplies, and \$188,560 for contractual services. Items included in contractual services are \$57,138 for utilities and \$85,258 for outside hospitalizations at other facilities. A single outside hospitalization for which the agency is financially responsible is projected to cost \$66,883. The Subcommittee has studied year-to-date expenditures and concludes that this recommendation is warranted.

The Subcommittee further notes that the hospital projects fee fund collections of \$1,716,039, an increase of \$86,489 above the \$1,629,550 recommended by the Governor. In addition, the hospital has received Medicare settlements totaling \$243,378 in FY 1990. These amounts total \$329,867, which is \$84,456 more than the recommended increase.



Representative James Lowther
Subcommittee Chairperson



Representative Bob Mead



Representative Bill Wisdom

SUBCOMMITTEE REPORT

Agency: Larned State Hospital

Bill No. 2618

Bill Sec. 2

Analyst: Porter

Analysis Pg. No. 612

Budget Pg. No. 394

<u>Expenditure Summary</u>	<u>Agency Req. FY 91</u>	<u>Governor's Rec. FY 91</u>	<u>Subcommittee Adjustments</u>
State Operations:			
State General Fund	\$ 23,003,051	\$ 24,439,548	\$ --
General Fees Fund	2,497,632	1,790,316	84,456
Title XIX Fund	6,545,213	4,075,377	--
Other Funds	93,329	93,329	--
Subtotal	\$ 32,139,225	\$ 30,398,570	\$ 84,456
Capital Improvements:			
State Institutions			
Building Fund	\$ 1,015,000	\$ --	\$ --
State General Fund	--	--	--
Subtotal	\$ 1,015,000	\$ --	\$ --
GRAND TOTAL	\$ 33,154,225	\$ 30,398,570	\$ 84,456
FTE Positions	969.1	936.1	--
Average Daily Census	535	520*	--

* The Governor does not recommend an average daily census for the hospital's 15-bed adult admissions unit.

Agency Request/Governor's Recommendation

The agency requests an FY 1991 operating budget of \$32,139,225, an increase of \$2,646,618, or 9 percent, over the approved FY 1990 budget. Of the increase, \$2,004,674 or 75.7 percent, is attributable to salaries and wages. The hospital requests 32 new positions, including 26 Licensed Mental Health Technician I (LMHT) positions, an Alcoholism Counselor, 2 Secretary I positions, 1 General Maintenance and Repair Technician position, a Secretary II position, and a Vocational Instructor. The funding request includes \$23,003,051 from the State General Fund, \$2,497,632 from the hospital's fee fund, \$6,545,213 from Title XIX, and \$93,329 from federal Chapter I and other federal education funds. The amount requested from Title XIX represents a significant increase from previous years. A large portion of the increase is due to SRS's expectation that the state's mental health hospitals will qualify for "disproportionate share" money. The expected increase is the result of a change in federal Medicaid law effective July 1, 1988, which directs the states to make extra Medicaid payments to hospitals serving a disproportionate share of Medicaid and low-income patients.

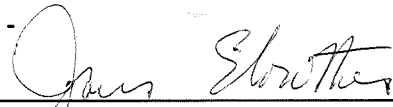
The Governor recommends FY 1991 expenditures of \$30,398,570, a decrease of \$1,740,655 from the agency request. The Governor does not recommend the additional positions requested by the agency. Included in the recommendation is funding of \$24,439,548 from the State General Fund, a decrease of \$1,436,497 from the agency request; \$1,790,316 from the hospital fee fund, a decrease of \$707,316 from the agency

request; \$4,075,377 from the Title XIX fund, a decrease of \$2,469,836 from the request; and \$93,329 from federal educational funds, as requested.

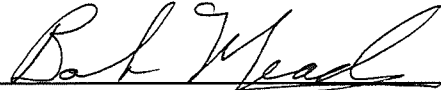
House Subcommittee Recommendations

The House Subcommittee concurs with the Governor's recommendations with the following adjustments:

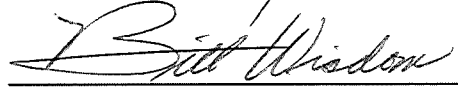
1. Increase the expenditure limitation of the hospital fee fund by \$84,456, from \$1,790,316 to \$1,874,772. The Governor's recommendation of \$30,398,570 for FY 1991 operating expenditures is a decrease of \$1,740,655 from the agency request. The Subcommittee notes that, although the recommended increase is far below the agency request, the hospital can attempt to reduce expenditures to stay within the recommendations. The recommended increase is for utilities. Based on FY 1990 year-to-date expenditures and projected usage at the new facility, the hospital anticipates a shortfall of \$172,173 for utilities in FY 1991. The Subcommittee notes that the hospital has projected that the FY 1991 beginning balance of the fee fund will be \$84,456 more than the beginning balance recommended by the Governor.
2. The Subcommittee was informed that the hospital is experiencing an increasing number of court-ordered admissions of mentally retarded persons. The hospital does not have the appropriate programs or staff training to address the needs of these patients and the hospital's average daily census is adversely affected by these admissions. The Subcommittee recommends that SRS develop a mechanism through which appropriate referrals to mental retardation facilities are expedited. The issue could be addressed through rules and regulations or through legislation.
3. Add a no-limit appropriation for special oil overcharge funds to purchase vehicles for patient transportation. This no-limit appropriation was approved for FY 1990 with the expectation that the agency would receive funds administered by the U.S. Department of Energy from the second stage oil overcharge program for the energy conservation-related projects and equipment purchases. The Subcommittee was informed that the agency has worked with the Kansas Corporation Commission in submitting an application for the federal funds and that it appears likely the agency will receive funds in FY 1990. However, should the agency need expenditure authority in FY 1991, the Subcommittee recommends that the no-limit appropriation be available in FY 1991.



Representative James Lowther
Subcommittee Chairperson



Representative Bob Mead



Representative Bill Wisdom

SUBCOMMITTEE REPORT

Agency: Osawatomi State Hospital Bill No. 2729 Bill Sec. 27

Analyst: Porter Analysis Pg. No. 621 Budget Pg. No. 436

<u>Expenditure Summary</u>	<u>Agency Req. FY 90</u>	<u>Governor's Rec. FY 90</u>	<u>Subcommittee Adjustments</u>
State Operations:			
State General Fund	\$ 16,092,180	\$ 16,006,696	\$ --
General Fees Fund	1,801,342	1,147,310	429,000
Title XIX Fund	2,600,905	2,600,905	--
Other Funds	<u>24,067</u>	<u>24,067</u>	--
Subtotal	\$ 20,518,494	\$ 19,778,978	\$ 429,000
Capital Improvements:			
State Institutions			
Building Fund	<u>\$ 360,079</u>	<u>\$ 365,927</u>	<u>\$ --</u>
GRAND TOTAL	<u><u>\$ 20,878,573</u></u>	<u><u>\$ 20,144,905</u></u>	<u><u>\$ 429,000</u></u>
FTE Positions	647.5	646.5	--
Average Daily Census	345	335*	--

* The Governor does not recommend an average daily census for the hospital's medical services unit.

Agency Request/Governor's Recommendation

Osawatomi State Hospital requests a total operating budget of \$20,518,494, the amount approved by the 1989 Legislature. Funding includes \$16,092,180 from the State General Fund, \$1,801,342 from the hospital's fee fund, \$2,600,905 from Title XIX, and \$24,067 from federal Chapter I funds. Osawatomi is currently accredited by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) and certified by the Health Care Financing Administration (HCFA) and may receive payments from the Medicare and Medicaid programs. The FY 1990 budget includes 8 new FTE positions approved by the 1989 Legislature, 4 of which (a .5 FTE Psychiatrist, 1 FTE RN III, a .5 FTE Psychologist II, and 1 FTE Secretary I) make up the hospital's community support traveling team. The team travels to community facilities and provides follow-up, consultation, and support services to discharged patients.

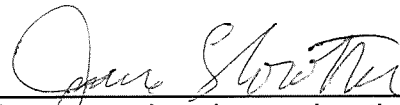
The Governor recommends FY 1990 expenditures of \$19,778,978, a decrease of \$739,516 from the agency request. The recommendation includes expenditures of \$16,006,696 from the State General Fund, \$1,147,310 from the hospital fee fund, \$2,600,905 from the Title XIX fund, and \$24,067 from federal Chapter I educational funds. The recommendation reflects reductions of \$85,484 from the State General Fund estimate and \$654,032 from the hospital fee fund estimate.

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Attachment 3*

House Subcommittee Recommendation

The House Subcommittee concurs with the Governor's recommendations, with the following adjustments:

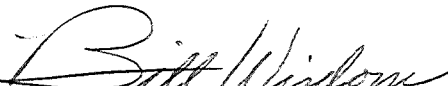
1. Increase the expenditure limitation of the hospital fee fund by \$429,000, from \$1,147,310 to \$1,576,310 for FY 1990. The Subcommittee notes that the Governor's recommendation for operating expenditures of \$19,778,978 is a decrease of \$739,516 from the amount approved by the 1989 Legislature. The Subcommittee was informed that the hospital has taken the following steps to contain expenditures in FY 1990: hiring of all staff with the exception of direct care staff has been delayed for two months; no holiday or overtime pay will be approved for the remainder of the year; travel has been substantially reduced; all unspent capital outlay funds have been frozen; purchasing approval is carefully scrutinized; and an employee awareness program has been implemented to enlist support and assistance in controlling expenditures. Despite these efforts, hospital officials state that they anticipate an FY 1990 shortfall of \$429,000.
2. The Subcommittee has reviewed year-to-date spending and notes that the hospital projects shortfalls of \$251,702 in salaries and wages, \$73,965 in contractual services, and \$153,164 in commodities. Areas in which the hospital projects expenditures significantly above those recommended by the Governor include fees for professional services, food, repairs, and maintenance materials, supplies, and parts, all of which the Subcommittee notes are essential for patient care or for maintenance of certification. In addition, the hospital estimates that it will pay \$53,860 in unbudgeted retirement pay in FY 1990.
3. The hospital projects FY 1990 fee collections of \$2,754,822, an increase of \$808,715 above the \$1,946,107 projected by the Governor. After adjusting for FY 1990 refunds, the hospital projects an FY 1990 ending balance of \$857,261, an increase of \$359,715 above the \$497,546 ending balance recommended by the Governor.



Representative James Lowther
Subcommittee Chairperson



Representative Bob Mead



Representative Bill Wisdom

SUBCOMMITTEE REPORT

Agency: Osawatomie State Hospital Bill No. 2618 Bill Sec. 2

Analyst: Porter Analysis Pg. No. 621 Budget Pg. No. 436

<u>Expenditure Summary</u>	<u>Agency Req. FY 91</u>	<u>Governor's Rec. FY 91</u>	<u>Subcommittee Adjustments</u>
State Operations:			
State General Fund	\$ 14,539,644	\$ 15,149,606	\$ --
General Fees Fund	2,512,640	2,361,172	285,163
Title XIX Fund	5,236,582	3,087,124	--
Other Funds	<u>52,855</u>	<u>52,855</u>	--
Subtotal	\$ 22,341,721	\$ 20,650,757	\$ 285,163
Capital Improvements:			
State Institutions			
Building Fund	<u>\$ 87,600</u>	<u>\$ 0</u>	<u>\$ 0</u>
GRAND TOTAL	<u>\$ 22,429,321</u>	<u>\$ 20,650,757</u>	<u>\$ 285,163</u>
FTE Positions	675.5	646.5	20.26
Average Daily Census	345	335*	--

* The Governor does not recommend an average daily census for the hospital's medical services unit.

Agency Request/Governor's Recommendation

The hospital requests a total operating budget of \$22,341,721 in FY 1991, an increase of \$1,823,227 (8.9 percent) over the FY 1990 estimate. Of the increase, 76.9 percent is attributable to salaries and wages, 9.9 percent to capital outlay, 4.7 percent to the education contract, 2.4 percent to utilities, and 6.1 percent to other operating expenditures. The request includes funding of 675.5 FTE positions, an increase of 28 positions. The new positions requested for FY 1991 include six RN III positions, ten Mental Health Aide positions, ten Licensed Mental Health Technician I (LMHT) positions, and two Social Worker III positions. The funding request includes \$14,539,644 from the State General Fund, \$2,512,640 from the hospital's fee fund, \$5,236,582 from Title XIX, and \$52,855 from federal Chapter I and other educational funds. The amount requested from Title XIX represents a significant increase from previous years. A large portion of the increase is due to SRS's expectation that the state's mental health hospitals will qualify for "disproportionate share" money. The expected increase is the result of a change in federal Medicaid law effective July 1, 1988, which directs the states to make extra Medicaid payments to hospitals serving a disproportionate share of Medicaid and low-income patients.

The Governor recommends FY 1991 expenditures of \$20,650,757, a decrease of \$1,690,964 from the agency's request. The recommendation reflects an increase of \$609,962 from the agency request from the State General Fund and decreases of \$151,468 from the hospital fee fund and \$2,149,458 from the Title XIX fund. The Title XIX recommendation does not reflect expenditures of disproportionate share funds.

House Subcommittee Recommendation

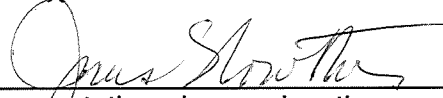
The House Subcommittee concurs with the Governor's recommendations, with the following adjustments:

1. Increase the expenditure limitation of the hospital fee fund by \$285,163 and add 26.0 limited term FTE positions, including 6.0 RN III positions, 10.0 Mental Health Aid positions, and 10.0 Licensed Mental Health Technician (LMHT) positions. The amount recommended would fund the positions for six months and includes a 6.3 percent turnover rate. The Subcommittee was informed that Joint Commission on the Accreditation of Healthcare Organizations (JCAHO) surveyors noted a deficiency in the number of registered nurses on duty in both a May 1988 survey and a follow-up June 1989 survey. Health Care Financing Administration (HCFA) surveyors cited a deficiency in the nurse staffing pattern at all levels (Mental Health Aid, LMHT, and RN) in an August 1989 survey. The Subcommittee reviewed survey reports and concurs with the hospital's assessment that these positions are essential to retain accreditation and certification and avoid a potential revenue loss of approximately \$4,000,000.

The Subcommittee notes that this recommendation is consistent with the tentative recommendations of the Subcommittee reviewing H.B. 2586, the Mental Health Reform Act. Addition of these positions on a temporary basis will allow the hospital to retain certification and accreditation. The recommendation also allows for a reduction in staffing once federal surveys are completed and the hospital proceeds with its plan for reducing the hospital's rated bed capacity.

2. The majority of the Subcommittee recommends that the hospital consider closing that portion of the Adult Psychosocial Program housed in the Adair Lodge buildings. These three buildings house a total of 22 patients, yet require substantial staffing because the 22 patients are located in the three separate buildings of the Lodge. As the hospital proceeds with its planned reduction in rated bed capacity, the Subcommittee recommends that the closing of these wards be given priority.
3. The Subcommittee notes that the hospital has a 45-bed, 30-day inpatient substance abuse treatment program. FY 1990 staffing includes 38.0 FTE positions and the Governor recommends FY 1990 expenditures of \$1,094,943. It appears to the Subcommittee that the majority of these patients could be treated in community settings and that closing the unit would provide further momentum for the implementation of mental health reform. Although time constraints prohibited further study of this issue, the Subcommittee requests that the Senate Subcommittee give further consideration to this proposal.
4. Add a no-limit appropriation for special oil overcharge funds to purchase vehicles for patient transportation. This no-limit appropriation was approved for FY 1990 with the expectation that the agency would receive funds administered by the U.S. Department of Energy from the second stage oil overcharge program for the energy conservation-related

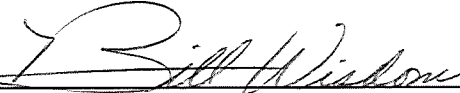
projects and equipment purchases. The Subcommittee was informed that the agency has worked with the Kansas Corporation Commission in submitting an application for the federal funds and that it appears likely the agency will receive funds in FY 1990. However, should the agency need expenditure authority in FY 1991, the Subcommittee recommends that the no-limit appropriation be available in FY 1991.



Representative James Lowther
Subcommittee Chairperson



Representative Bob Mead



Representative Bill Wisdom



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BEFORE THE HOUSE APPROPRIATIONS COMMITTEE
OF THE STATE OF KANSAS

TESTIMONY IN SUPPORT OF HOUSE BILL NO. 2870

Testimony of Paul D. Handy, Administrative Judge of
the 25th Judicial District, given on March 1, 1990, in Topeka,
Kansas.

HA
3-2-90
Attachment 4

1 Please accept this testimony in support of House
2 Bill No. 2870.

3 The 25th Judicial District is comprised of six
4 counties: Finney, Greeley, Hamilton, Kearny, Scott, and
5 Wichita. Three counties are in the Central time zone, and
6 three are in the Mountain time zone. The district is
7 approximately 107 miles east to west and 70 miles north to
8 south.

9 There are three district judges in the 25th Judicial
10 District, all of whom reside in Finney County. Currently, two
11 district judges are assigned the civil (CH. 60) cases and
12 criminal (felony) cases in Finney County. One district judge
13 is assigned the domestic cases in Finney County and the major
14 cases in the remaining five counties. In FY 1989, the
15 district judges in this district ranked 7th in caseload per
16 judge of the 23 districts with both district and district
17 magistrate judges.

18 In addition, there are five district magistrate
19 judges in the 25th Judicial District -- one in each county,
20 except Finney County. Due to the inordinate number of cases
21 in Finney County, it is necessary to assign a district
22 magistrate judge to Finney County every day. On Monday, Judge
23 Jennings from Kearny County is assigned the juvenile bench in
24 Finney County. On Tuesday and Wednesday, Judges Blake and
25 Heath from Hamilton and Wichita Counties are assigned the

1 criminal bench. On Thursday, Judge Goering from Scott County
2 is assigned the traffic bench; and on Friday, Judge Wilson
3 from Greeley County is assigned the limited civil bench.

4 In CY 1989, there were 11,370 magistrate-level cases
5 filed in this district; of those 7,655 were in Finney County.
6 This equates to 2,274 cases per district magistrate. On a
7 statewide level, in those districts with both district and
8 district magistrate judges, the average caseload per judge is
9 1,745 cases. The addition of a district magistrate in Finney
10 County would still place the district above the statewide
11 average at 1,895 cases per magistrate.

12 A review of the caseload statistics from 1986
13 through 1989 reflects a districtwide increase in the number of
14 magistrate-level cases (excluding traffic) of 24 percent.
15 Included in this increase is a 25 percent increase in Finney
16 County alone.

17 Although the number of traffic cases has fluctuated
18 over the past four years, Finney County has remained
19 consistently over 4,000 cases annually, with 5,222 cases being
20 filed in CY 1988. Of particular judicial impact, however, is
21 the disproportionate number of DUI cases filed in Finney
22 County: in CY 1988, 502 DUI cases; and in CY 1989, 541. This
23 represents 10 to 11 percent of the total traffic filings and
24 is second only to Sedgwick County in the number of DUI cases
25 in any one county in the state. Since DUI cases are

1 principally handled by a district magistrate, this ever-
2 increasing number of cases creates an additional burden on the
3 district magistrate judge assigned from another county.

4 Although statistics reflect that in past years
5 traffic case filings have been down, this statistic reflects a
6 personnel shortage by the Kansas Highway Patrol. It is my
7 understanding that the last graduating class of the Kansas
8 Highway Patrol resulted in five additional troopers being
9 assigned to this district. While they are still on
10 probationary status, an increased traffic docket is expected
11 this calendar year.

12 Aside from the statistics, the practicality of
13 having a district magistrate judge in Finney County is equally
14 supportive. Under the existing scheme, Judge Wilson, who
15 lives in Tribune, Kansas, needs to leave her home at 5:00 a.m.
16 to be in Garden City for her assignment on Friday. The
17 distance and time-zone changes create unnecessary hardships
18 for traveling magistrates, particularly those with school-aged
19 children. In addition, inclement weather has caused dockets
20 to be canceled or continued when conditions are not severe
21 enough to close the court but dangerous enough to prohibit
22 travel. On three occasions in the last two weeks, parties and
23 their lawyers were denied docket appearances on traffic and
24 criminal matters due to weather conditions inhibiting a
25 magistrate's travel to Garden City.

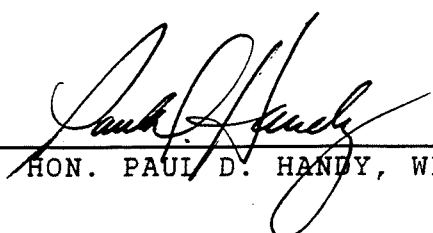
4-4

1 At last review, it appears that approximately
2 \$8,000.00 is expended annually for travel costs associated
3 with assigning a magistrate judge to Garden City on a daily
4 basis. Although I can appreciate the expense associated with
5 funding this position, particularly in a tight budget period,
6 it is hoped this travel expense presently incurred would
7 assist to some degree.

8 The present assignment schedule not only creates
9 undue hardships on the existing district magistrates but also
10 promotes a lack of continuity in decisions by the Court,
11 precipitates the unavailability of a judge, and destroys the
12 theory of accountability.

13 Finney County at last observation was the fastest-
14 growing county in Kansas, and there is little reason to
15 believe that its growth rate will stall in the future. As the
16 population increases, so also must our service to the public.
17 To add an additional district magistrate judge to serve Finney
18 County promotes the needs of our community now and in the
19 future.

20 For the reasons outlined, I, together with our local
21 judiciary and bar, urge your support for H.B. 2870. Your
22 consideration in this regard is sincerely appreciated. Thank
23 you.

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HON. PAUL D. HANDY, WITNESS



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Subscribed and sworn before me this 28th day of
February, 1990.

Diana G. Connelly
DIANA G. CONNELLY, NOTARY PUBLIC

My Commission Expires 2/2/93.

House Bill No. 2870
House Appropriations Committee
March 1, 1990

Testimony of Paul Shelby
Assistant Judicial Administrator
Office of Judicial Administration

Mr. Chairman:

I appreciate the opportunity to appear today to discuss House Bill No. 2870, which would add a district magistrate judge position in Finney County, bringing the total number of magistrate judges in the 25th Judicial District to six positions. (See page 2, line 41.)

The 25th Judicial District is comprised of six counties-- Finney, Greeley, Hamilton, Kearny, Scott, and Wichita. There is a judge in each county, and the position allocations are:

Finney County - 3 district judges
Greeley County - 1 district judge
Hamilton County - 1 magistrate judge
Kearny County - 1 magistrate judge
Scott County - 1 magistrate Judge and
Wichita County - 1 magistrate judge.

HA
3-2-90
Attachment 5

There is no district magistrate judge in Finney County. The Administrative Judge is located in Finney County, which has the heaviest caseload in the district.

The Administrative Judge of this district assigns magistrate judges into Finney County every week Monday through Friday to hear criminal, traffic, juvenile, and probate cases. We understand this assignment system is working very well in this district, as well as in other districts across the state. This particular assignment pattern has been in effect for a number of years, and we have found it to be an effective and efficient use of district magistrate judges.

The Supreme Court has established annual budget policies and procedures to be followed, which allows each judicial district to request additional judicial and/or nonjudicial positions. The Court reviews the request and then decides whether the request should be included in the budget.

No additional magistrate judge position request was made for the 25th Judicial District, and therefore was never considered by the Court.

5-7

The Supreme Court is not requesting any new judicial positions this year in its budget.

The Court does not feel this request is justified by caseload measures, needs of the district, or because of inefficient use of assigned magistrate judges into Finney County.

The Supreme Court does not support this bill for the above reasons, but the interest of Representatives Heinemann, Guldner, and Moomaw in this matter is appreciated.

#

25th JUDICIAL DISTRICT
(Finney, Greeley, Hamilton, Kearny,
Scott & Wichita counties)

District Judges:

Finney County

Hon. J. Stephen Nyswonger
Div. 1, District Court
P.O. Box 798
Garden City 67846-0798

Hon. Paul D. Handy, Administrative Judge
Div. 2, District Court
P.O. Box 798
Garden City 67846-0798

Hon. Philip C. Vieux
Div. 3, District Court
P.O. Box 798
Garden City 67846-0798

District Magistrate Judges:

Greeley County

Hon. C. Ann Wilson
P.O. Box 516
Tribune 67879

(Pos. 1)

Hamilton County

Hon. Donna L. J. Blake
P.O. Box 745
Syracuse 67878

(Pos. 2)

Kearny County

Hon. J. Russell Jennings
P.O. Box 64
Lakin 67860

(Pos. 3)

Scott County

Hon. Gordon Goering
Scott County Courthouse
Scott City 67871

(Pos. 4)

Wichita County

Hon. Claude S. Heath
Wichita County Courthouse
Leoti 67861

(Pos. 5)

SUBCOMMITTEE REPORT

Agency: Rainbow Mental Health Facility

Bill No. 2729

Bill Sec. 29

Analyst: Porter

Analysis Pg. No. 630

Budget Pg. No. 466

<u>Expenditure Summary</u>	<u>Agency Req. FY 90</u>	<u>Governor's Rec. FY 90</u>	<u>Subcommittee Adjustments</u>
State Operations:			
State General Fund	\$ 2,834,571	\$ 2,736,125	\$ --
General Fees Fund	231,468	231,468	103,312
Title XIX Fund	1,377,467	1,377,467	--
Other Funds	25,388	47,180	--
Subtotal	<u>\$ 4,468,894</u>	<u>\$ 4,392,240</u>	<u>\$ 103,312</u>
Capital Improvements:			
State Institutions Building Fund	<u>\$ --</u>	<u>\$ --</u>	<u>\$ --</u>
GRAND TOTAL	<u>\$ 4,468,894</u>	<u>\$ 4,392,240</u>	<u>\$ 103,312</u>
FTE Positions	124.0	124.0	--
Average Daily Census Inpatient	47	47	--

Agency Request/Governor's Recommendation

Rainbow Mental Health Facility estimates FY 1990 expenditures of \$4,468,894, \$111 less than the amount approved by the 1989 Legislature. The budget includes financing of 124.0 FTE positions. Funding includes \$2,834,571 from the State General Fund, \$231,468 from Rainbow's fee fund, \$1,377,467 from Title XIX, and \$25,388 from federal Chapter I funds.

The Governor recommends an FY 1990 operating budget of \$4,392,240, a decrease of \$76,654 from the agency estimate. Recommended decreases are from the estimates for salaries and wages (\$68,148) and commodities (\$14,506). Included is a downward adjustment to the cost of employee health insurance (\$27,918). The recommendation includes \$2,736,125 from the State General Fund, a decrease of \$98,446 from the agency estimate; \$231,468 from the general fees fund, as estimated; \$1,377,467 from the Title XIX fund, as estimated; and \$47,180 from federal Chapter I funds, an increase of \$21,792 from the agency estimate.

House Subcommittee Recommendation

The House Subcommittee concurs with the Governor's recommendation with the following adjustments:

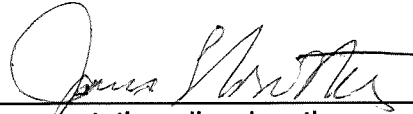
1. Increase the expenditure limitation of the hospital fee fund by \$103,312 in FY 1990. The Subcommittee has reviewed year-to-date expenditures and concurs with the agency's assessment that the FY 1990 year-to-

*HA
3-2-90
Attachment 6*

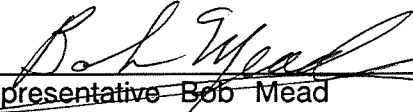
date turnover rate is substantially less than the turnover rate recommended by the Governor and recommends \$81,520 to address the hospital's projected shortfall in salaries and wages. The Subcommittee recommends the remaining \$21,792 because the Governor's recommendation includes that amount in federal Chapter I education funds which the hospital has since learned will not be available in FY 1990.

The Subcommittee has reviewed the hospital's fee fund projections for FY 1990, which are projected to be \$341,709, an increase of \$110,241 above the \$231,468 recommended by the Governor. It appears that the agency will more than meet the FY 1990 ending balance recommended by the Governor and that the expenditure limitation increase recommended by the Subcommittee will not result in a fee fund deficit in FY 1991.

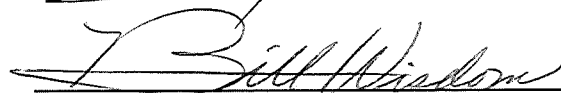
2. While touring the facility, Subcommittee members noticed that a bed frame in one of the facility's seclusion rooms contains a raw metal edge which protrudes from the bed's mattress and poses a potential hazard for any patients housed in the seclusion room. The Subcommittee discussed this issue with facility officials and recommends that the facility correct this condition as soon as possible.



Representative Jim Lowther
Subcommittee Chairperson



Representative Bob Mead



Representative Bill Wisdom

SUBCOMMITTEE REPORT

Agency: Rainbow Mental Health Facility

Bill No. 2618

Bill Sec. 2

Analyst: Porter

Analysis Pg. No. 630

Budget Pg. No. 466

<u>Expenditure Summary</u>	<u>Agency Req. FY 91</u>	<u>Governor's Rec. FY 91</u>	<u>Subcommittee Adjustments</u>
State Operations:			
State General Fund	\$ 2,316,743	\$ 2,724,152	\$ 38,254
General Fees Fund	316,638	302,854	--
Title XIX Fund	2,163,442	1,515,649	--
Other Funds	43,814	22,022	--
Subtotal	<u>\$ 4,840,637</u>	<u>\$ 4,564,677</u>	<u>\$ 38,254</u>
Capital Improvements:			
State Institutions Building Fund	<u>\$ 903,700</u>	<u>\$ 903,700</u>	<u>\$ --</u>
GRAND TOTAL	<u>\$ 5,744,337</u>	<u>\$ 5,468,377</u>	<u>\$ 38,254</u>
 FTE Positions	 127.0	 124.0	 --
 Average Daily Census Inpatient	 47	 47	 --

Agency Request/Governor's Recommendation

Rainbow requests an operating budget of \$4,840,637, an increase of \$371,743 over the FY 1990 estimate of \$4,468,894. Of the increase, 47 percent is attributable to salaries and wages, 15.9 percent to the education contract, 26.9 percent to capital outlay, and 10.2 percent to other areas of the budget. The funding request includes \$2,316,743 from the State General Fund, \$316,638 from the hospital's fee fund, \$2,163,442 from Title XIX, and \$43,814 from federal Chapter I funds. The request reflects continuation of all existing programs and the addition of 3.0 FTE positions. The amount requested from Title XIX represents a significant increase from previous years. A large portion of the increase is due to SRS' expectation that the state's mental health hospitals will qualify for "disproportionate share" money. The expected increase is the result of a change in federal Medicaid law effective July 1, 1988, which directs the states to make extra Medicaid payments to hospitals serving a disproportionate share of Medicaid and low-income patients.

The Governor recommends FY 1991 operating expenditures of \$4,564,677, a decrease of \$275,960 from the agency request. Recommended decreases are from the request for salaries and wages (\$75,393), contractual services (\$71,073), commodities (\$17,969), and capital outlay (\$111,525). The recommendation includes \$2,724,152 from the State General Fund, an increase of \$407,409 from the agency request; \$302,854 from the general fees fund, a decrease of \$13,784 from the agency request; \$1,515,649 from the Title XIX fund, a decrease of \$647,793 from the agency request; and \$21,792 from the federal Chapter I fund, a decrease of \$21,792 from the agency request. The Governor recommends \$903,700 from the State Institutions Building Fund to remodel and construct an addition to the facility's special purpose school.

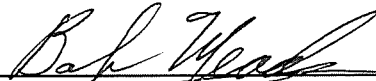
House Subcommittee Recommendation

The House Subcommittee concurs with the Governor's recommendation with the following adjustments:

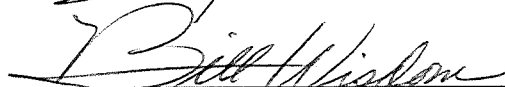
1. Add \$38,254 from the State General Fund for the facility's education contract with U.S.D. 500. The Subcommittee notes that the school contract is essential to the operation of the facility and that the facility is adamant that this funding is necessary in FY 1991. The Subcommittee further recommends that the agency's FY 1991 fee fund receipts be reviewed by the 1991 Legislature with the specific purpose of determining if this additional funding can be shifted to the fee fund rather than the State General Fund.
2. The Subcommittee notes that the facility anticipates a significant shortfall in funding for salaries and wages in FY 1991 if turnover remains at the same low level the facility is experiencing in FY 1990. Rather than increasing funding for salaries and wages at this time, the Subcommittee recommends that the 1991 Legislature review the agency's turnover rate to determine if additional funding for salaries and wages is warranted.
3. Add a no-limit appropriation for special oil overcharge funds to purchase vehicles for patient transportation. This no-limit appropriation was approved for FY 1990 with the expectation that the agency would receive funds administered by the U.S. Department of Energy from the second stage oil overcharge program for energy conservation-related projects and equipment purchases. The Subcommittee was informed that the agency has worked with the Kansas Corporation Commission in submitting an application for the federal funds and that it appears likely the agency will receive funds in FY 1990. However, should the agency need expenditure authority in FY 1991, the Subcommittee recommends that the no-limit appropriation be available in FY 1991.



Representative Jim Lowther
Subcommittee Chairperson



Representative Bob Mead



Representative Bill Wisdom

SUBCOMMITTEE REPORT

Agency: Topeka State Hospital

Bill No. 2729

Bill Sec. 30

Analyst: Porter

Analysis Pg. No. 646

Budget Pg. No. 554

<u>Expenditure Summary</u>	<u>Agency Req. FY 90</u>	<u>Governor's Rec. FY 90</u>	<u>Subcommittee Adjustments</u>
State Operations:			
State General Fund	\$ 12,773,216	\$ 12,594,383	\$ --
General Fees Fund	5,665,375	5,643,524	234,768
Title XIX Fund	3,447,980	3,019,803	--
Other Funds	95,520	95,520	--
Subtotal	<u>\$ 21,982,091</u>	<u>\$ 21,353,230</u>	<u>\$ 234,768</u>
Capital Improvements:			
State Institutions			
Building Fund	<u>\$ 195,288</u>	<u>\$ 195,288</u>	<u>\$ --</u>
GRAND TOTAL	<u><u>\$ 22,177,379</u></u>	<u><u>\$ 21,548,518</u></u>	<u><u>\$ 234,768</u></u>
FTE Positions	651.7	651.7	--
Average Daily Census	313	313	--

Agency Request/Governor's Recommendation

FY 1990. Topeka State Hospital requests an FY 1990 operating budget of \$21,982,091, an increase of \$86,137 from the amount approved by the 1989 Legislature. The agency requests funding for 651.7 FTE positions, 1 FTE less than the 652.7 FTE positions approved by the 1989 Legislature. Funding includes \$12,773,216 from the State General Fund, including an \$86,137 State General Fund supplemental appropriation, \$5,665,375 from the hospital's fee fund, \$3,447,980 from Title XIX, and \$95,520 from federal Chapter I funds. Although the hospital was decertified for portions of FY 1988 and FY 1989, Topeka is currently eligible to receive full Medicare and Medicaid payments. Found to be out of compliance with federal standards in the areas of medical records and staffing, the hospital was decertified in March of 1988. In October, 1988, a HCFA survey team conducted a reasonable assurance survey to determine if the reasons for the decertification had been corrected. HCFA found that the hospital had not corrected the deficiencies and that it was not yet ready for recertification. The hospital was accredited by JCAHO and certified by HCFA following May 1989 surveys. The hospital had projected a FY 1989 loss of \$4,060,000 as a result of decertification. Early in FY 1990, however, the agency discovered that it would be able to recover the majority of those losses due to a Medicaid regulation which allows hospitals to collect Medicaid payments for children under the age of 21 who are hospitalized in a decertified facility if the facility is accredited by JCAHO.

The FY 1990 budget reflects the transfer of the 45-bed comprehensive screening unit and its financing to the authority of the Commissioner of Youth Services. The screening unit's FY 1989 budget included funding of \$1,272,229 and 52.7 FTE positions.

*hh
3-2-90
Attachment 7*

The Governor recommends an FY 1990 operating budget of \$21,353,230, a decrease of \$628,861 from the hospital's request. The decrease is reflected in salaries and wages (\$238,809), contractual services (\$195,866), and commodities (\$194,186). The recommendation includes funding of \$12,594,383 from the State General Fund, \$5,643,524 from the hospital fee fund, \$3,019,803 from the Title XIX fund, and \$95,520 from federal Chapter I funds.

House Subcommittee Recommendations

The House Subcommittee concurs with the Governor's recommendations, with the following adjustments:

1. Increase the expenditure limitation on the hospital fee fund by \$234,768 in FY 1990. The Subcommittee notes that the Governor's recommendation for FY 1990 is a decrease of \$542,724 from the amount approved by the 1989 Legislature and a decrease of \$628,861 from the agency's FY 1990 estimate. The agency has taken steps to reduce its 1990 budget by \$307,956 in an attempt to keep expenditures within the Governor's recommendation. However, the Subcommittee concurs with the agency's assessment that, despite measures taken to meet the Governor's recommendations, the agency will not be able to generate savings of \$234,768 of the recommended decrease. The Subcommittee notes that, of the decrease, \$238,809 is from the amount budgeted for salaries and wages. The agency has cancelled a Licensed Mental Health Technician (LMHT) training class which generated savings of \$121,000, but cancellation of the course leaves the hospital without qualified personnel to provide direct care to hospital patients. The agency currently has fourteen LMHT vacancies. The Subcommittee further notes that the Governor's recommendation allows for turnover savings of \$1,487,474, or 7.4 percent, an increase of \$130,107 above the \$1,357,367, or 6.7 percent, in turnover savings requested by the hospital. The Subcommittee is concerned that additional reductions in staffing would result in a significant decrease in patient services and could potentially result in decertification of the hospital.

The Subcommittee has reviewed the agency's estimated fee fund projections for FY 1990, which are based on actual receipts for the first seven months and projected receipts for the remainder of the year. The agency estimates a projected FY 1990 ending balance of \$916,580, an increase of \$676,830 above the \$239,750 ending balance recommended by the Governor. The Subcommittee concurs that the increase in fee fund collections is sufficient to offset the \$234,768 increase recommended by the Subcommittee.

2. The Subcommittee requests that the Senate Subcommittee review the progress of the agency's application for funds to purchase vehicles and energy-conserving laundry equipment through the use of second-stage oil overcharge funds. Although the 1989 Legislature approved the use of second-stage funds to purchase vehicles for the hospital, the agency included the energy-conserving laundry equipment in its application. The Subcommittee approves of the purchase of energy-conserving laundry equipment and recommends that the proviso allowing

expenditures from the second-stage fund be amended to allow expenditures for the laundry equipment as well as for vehicles.

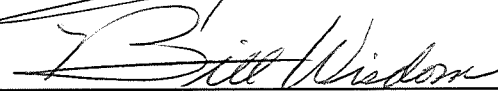
3. The Subcommittee reviewed staff vacancies and was informed that the hospital currently has three unfilled psychologist positions and that the agency has been attempting to fill one of the positions for eighteen months with no success. According to the agency, the approved salary for psychologists is significantly below the market rate offered in the private sector for psychologists. The Subcommittee recommends that the Division of Personnel Services review and address this issue as soon as possible.



Representative Jim Lowther
Subcommittee Chairperson



Representative Bob Mead



Representative Bill Wisdom

SUBCOMMITTEE REPORT

Agency: Topeka State Hospital

Bill No. 2618

Bill Sec. 2

Analyst: Porter

Analysis Pg. No. 656

Budget Pg. No. 554

<u>Expenditure Summary</u>	<u>Agency Req. FY 91</u>	<u>Governor's Rec. FY 91</u>	<u>Subcommittee Adjustments</u>
State Operations:			
State General Fund	\$ 12,820,367	\$ 12,268,683	\$ --
General Fees Fund	4,498,230	4,454,311	100,104
Title XIX Fund	5,854,341	5,371,129	--
Other Funds	100,818	100,818	--
Subtotal	<u>\$ 23,273,756</u>	<u>\$ 22,194,941</u>	<u>\$ 100,104</u>
Capital Improvements			
State Institutions			
Building Fund	<u>\$ 1,103,800</u>	<u>\$ 0</u>	<u>\$ --</u>
GRAND TOTAL	<u>\$ 24,377,556</u>	<u>\$ 22,194,941</u>	<u>\$ 100,104</u>
 FTE Positions	 660.7	 651.7	 4.0
Average Daily Census	332	332	--

Agency Request/Governor's Recommendation

FY 1991. The FY 1991 operating budget request for Topeka State Hospital is \$23,273,756, an increase of \$1,291,665, or 5.9 percent, over the FY 1990 estimated operating budget. The request provides for 660.7 positions. The request includes funding of \$12,820,367 from the State General Fund, \$4,498,230 from the hospital's fee fund, \$5,854,341 from Title XIX, and \$100,818 from federal Chapter I funds. The amount requested from Title XIX represents a significant increase from previous years. A large portion of the increase is due to SRS's expectation that the state's mental health hospitals will qualify for "disproportionate share" money. The expected increase is the result of a change in federal Medicaid law effective July 1, 1988, which directs the states to make extra Medicaid payments to hospitals serving a disproportionate share of Medicaid and low-income patients. The FY 1991 budget request presumes that the hospital will remain certified for the entire fiscal year. Of the \$1,291,665 increase from FY 1990, 73.6 percent is for salaries and wages, including new positions, 9.5 percent is for capital outlay, 7.2 percent is for the education contract, 2.3 percent is for the Menninger contract, 2.0 percent is for utilities, and 5.4 percent is for other items. The budget request includes 9.0 new positions, including a Physician, a Social Worker I, an Auto Driver, a Carpenter I, and 5 Licensed Practical Nurse (LPN) positions.

The Governor recommends FY 1991 operating expenditures of \$22,194,941, a decrease of \$1,103,800 from the agency request. The Governor does not recommend the additional positions requested by the hospital. The recommendation includes expenditures of \$12,268,683 from the State General Fund, \$4,454,311 from the hospital fee fund, \$5,371,129 from the Title XIX fund, and \$100,818 from federal Chapter I funds.

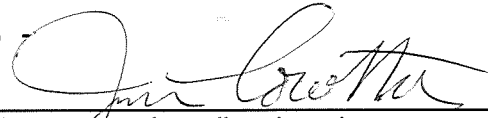
House Subcommittee Recommendations

The House Subcommittee concurs with the Governor's recommendations, with the following adjustments:

1. Increase the expenditure limitation of the hospital fee fund by \$78,798 and add 4.0 FTE Licensed Practical Nurse (LPN) positions in FY 1991. Funding recommended by the Subcommittee includes a 7.4 percent turnover rate. The Subcommittee was informed that the LPN positions would be utilized as part of a program to enable the hospital to develop and maintain its own resource pool of registered nurses. LPNs entering the program would sign a contract with the hospital similar to the contracts for tuition assistance used by the hospital. In exchange for the hospital paying for the LPN's tuition and books for two years while the LPN is attending a baccalaureate nursing program, the LPNs would agree to work for the hospital upon graduation as RNs for six months for every \$1,000 granted in tuition assistance. The LPN positions would not be upgraded to RN positions at any time. As the LPNs complete the requirements for licensure as RNs, they would apply for any vacant position at the hospital.

The Subcommittee notes that, after adjustment for the increased expenditures recommended by the Subcommittee in FY 1990, the hospital anticipates an FY 1990 fee fund balance of \$442,062 in excess of the balance recommended by the Governor. The hospital anticipates that its increased fee fund receipts will continue into FY 1991.

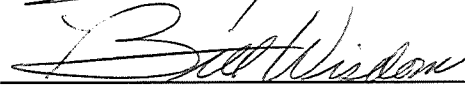
2. Add \$21,306 from the hospital fee fund for furnishings and equipment for patient wards. The Subcommittee notes that the Governor's recommendation for capital outlay is \$53,208, a decrease of \$368,552 from the agency request of \$421,760, and the recommendation includes no funding for furnishings and equipment for patient wards. The Subcommittee was informed, and noted on its tour of the hospital, that furnishings are subjected to hard use and that many are in need of replacement. The Subcommittee further notes that the Joint Commission on Accreditation of Health Facilities (JCAHO) considers patient environment, including ward furnishings, as a survey item.
3. Add a no-limit appropriation for special oil overcharge funds to purchase vehicles for patient transportation and for energy-conserving laundry equipment. This no-limit appropriation was approved for FY 1990 with the expectation that the agency would receive funds administered by the U.S. Department of Energy from the second stage oil overcharge program for energy conservation-related projects and equipment purchases. The Subcommittee was informed that the agency has worked with the Kansas Corporation Commission in submitting an application for the federal funds and that it appears likely the agency will receive funds in FY 1990. However, should the agency need expenditure authority in FY 1991, the Subcommittee recommends that the no-limit appropriation be available in FY 1991.



Representative Jim Lowther
Subcommittee Chairperson



Representative Bob Mead



Representative Bill Wisdom

664-91/KP



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TESTIMONY OF NANCY J. LINDBERG,
ASSISTANT TO THE ATTORNEY GENERAL
ON BEHALF OF ATTORNEY GENERAL ROBERT T. STEPHAN
BEFORE THE HOUSE APPROPRIATIONS COMMITTEE

RE: House Bill 3009

March 1, 1990

Mr. Chairman and Members of the Committee:

Attorney General Bob Stephan on behalf of his Committee on Day Care asked for House Bill 3009 to be introduced. Last summer, Attorney General Stephan organized a committee on day care to review a proposal he had made in the 1989 session of the legislature. That bill, House Bill 2451, provided for a pilot day care center for children of state employees.

The Attorney General's Day Care Committee not only made recommendations for amendments to House Bill 2451 which was passed by the House Pensions, Investments and Benefits Committee this morning, but also proposed four new bills. House Bill 3009 is one of those bills.

We propose to amend K.S.A. 75-1253 to change the \$250,000 amount before a negotiating committee is convened to \$500,000. Currently, any time a project is estimated to be over \$250,000 a negotiating committee has to become involved in the project.

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In 1978, when the \$250,000 limit was established, it was considered an acceptable limit. I believe 12 years later an increased limit would be more realistic due to inflation.

The Day Care Committee is interested in this issue, because if the Department of Administration would chose to renovate or build a large day care facility instead of the smaller center that has been discussed, the project would be unnecessarily delayed because a negotiating committee would have to be formed before the project could begin.

Day care has become an important issue for today's working family. It is probable that a larger day care center will more adequately meet the needs of state employees and their children not only in Topeka, but in other areas of the state as well.

We would appreciate your support on this bill. For your information I have attached a copy of the membership of the Attorney General's Committee on Day care to my testimony.

ATTORNEY GENERAL BOB STEPHAN'S DAY CARE COMMITTEE

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Mike Hayden
Governor

Steven J. Davies, Ph.D.
Secretary

March 1, 1990

HOUSE APPROPRIATIONS COMMITTEE

RE: SENATE BILL NO. 497

K.S.A. 75-6602 authorizes the director of Kansas Correctional Industries to sell property to the general public at fixed or negotiated prices, if such property has been offered for a period of at least 60 days to individuals and entities eligible for participation in the Federal Surplus Property Program. This 60 day requirement has created several problems, particularly for the state agencies turning in the surplus property.

First of all, the majority of surplus property is held on site at the turn-in agency and occupies severely needed space. Secondly, property such as vehicles and computer equipment depreciate rather rapidly thereby making it more difficult to obtain top dollar for the property. Third, agencies such as Central Motor Pool and the Kansas Highway Patrol have complained of cash flow problems resulting from the time consuming process from date of turn-in to final sale. This entire process may take five to six months as indicated by the following example.

Property declared surplus after June 25th will not appear in the sales catalog until August. (This is due to our cut off date with Central Duplicating). Pursuant to the current law, the property is then offered for sixty days to eligible donees (August and September). If property is not sold during this period, it is then offered to the general public for thirty days (October). If not sold by the end of October, the property is placed in the sealed bid process which frequently takes another forty-five days (November-Mid-December).

Given the fact that sixty percent of the surplus property is purchased by the general public and that many agencies are complaining about the lengthy disposal process, we recommend that the 60 day offering requirement, as presently prescribed, be revised to 30 days. Our experience indicates that the vast

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majority of property purchased by eligible donees occurs within the first 30 days. Several agencies, including the Regency Institutions, KDOT and Central Motor Pool have indicated their support of this proposed revision. These aforementioned agencies generate approximately seventy per cent of all surplus property.

David R. McKune, Deputy Secretary, Programs
Kansas Department of Corrections

2-13-90

For Consideration by House Committee
on Appropriations

Session of 1990

HOUSE BILL No. 2669

By Representatives Roy, Adam, Allen, Amos, Baker, Barkis, Barr, Blumenthal, Borum, Bowden, Brady, Branson, Brown, Bryant, Buehler, Campbell, Cates, Charlton, Cribbs, Dean, Dillon, Douville, Empson, Ensminger, Everhart, Flottman, Flower, Francisco, Freeman, Fry, Fuller, Gjerstad, Gomez, Graeber, Green, Gregory, Gross, Grotewiel, Guldner, Hamm, Harder, Helgerson, Hensley, Hoy, Hurt, Johnson, Jones, King, Krehbiel, Lacey, Lane, Larkin, Lawrence, Littlejohn, J.C. Long, J.W. Long, Lowther, Lynch, McClure, Mead, D. Miller, R.D. Miller, Mollenkamp, Patrick, Peterson, Pottorff, Ramirez, Reardon, Reinert, Reinhardt, Rezac, Roe, Roper, Russell, Sader, Samuelson, Sawyer, Schauf, Sebelius, Shallenburger, Shumway, Snowbarger, Solbach, Spaniol, Sughrue, Teagarden, Turnbaugh, Turnquist, Vancrum, Wagnon, Walker, Watson, Webb, Weimer, Wells, Whiteman, Wiard, Wilbert, Williams and Wisdom

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22 AN ACT concerning the office and storage space requirements of
23 state agencies; prescribing certain reports, budget estimates and
24 recommendations thereon; amending K.S.A. 75-3717 and 75-3721
25 and repealing the existing sections.
26

27 *Be it enacted by the Legislature of the State of Kansas:*

28 Section 1. K.S.A. 75-3717 is hereby amended to read as follows:
29 75-3717. (a) As provided in this section, each state agency, not later
30 than October 1 of each year, shall file with the division of the budget
31 its budget estimates, and all amendments and revisions thereof, in
32 the form provided by the director of the budget, including a full
33 explanation of its requests for any appropriations for the expansion
34 of present services and the addition of new services. Each explanation
35 of a state agency's request for appropriations for the expansion of
36 present services or the addition of new activities shall include an
37 estimate of the anticipated expenditures for the next fiscal year and
38 for each of the three ensuing fiscal years which would be required
39 to support each expansion of present services or addition of new
40 services as requested by the state agency. ~~Each state agency shall~~

41 ~~include with such budget estimate, as a part of such budget estimate,~~
42 ~~a report specifying (1) the office and storage space requirements of~~
43 ~~the state agency for the current fiscal year and the ensuing fiscal~~

except as provided for office and
storage space reports

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1 ~~year and (2) the anticipated office and storage space requirements~~
 2 ~~of the state agency for the third ensuing fiscal year and for the fifth~~
 3 ~~ensuing fiscal year after the current fiscal year.~~ At the same time
 4 as each state agency submits to the division of the budget a copy
 5 of its budget estimate, and all amendments and revisions thereof,
 6 each such state agency shall submit a copy of such estimate, and all
 7 amendments and revisions thereof, directly to the legislative research
 8 department for legislative use.

9 (b) The director of the budget shall require the agencies to submit
 10 a sufficient number of copies of their budget estimates, and all
 11 amendments and revisions thereof, to such director's office to satisfy
 12 the requirements of such office and one additional copy for legislative
 13 use which shall be retained in the division of the budget until the
 14 budget of the governor is submitted to the legislature. On or before
 15 the day that such budget is submitted to the legislature such leg-
 16 islative use copy, posted to reflect the governor's budget recom-
 17 mendations, shall be submitted to the legislative research department
 18 for use by the ways and means committee of the senate and the
 19 committee on appropriations of the house of representatives. Fol-
 20 lowing presentation of the governor's budget report to the legislature,
 21 the legislative research department may request and shall receive
 22 detailed information from the division of the budget on the governor's
 23 budget recommendations.

24 (c) The director of the budget may prepare budget estimates for
 25 any state agency failing to file a request.

26 Sec. 2. K.S.A. 75-3721 is hereby amended to read as follows:
 27 75-3721. (a) On or before the eighth calendar day of each regular
 28 legislative session, the governor shall submit the budget report to
 29 the legislature, except that in the case of the regular legislative
 30 session immediately following the election of a governor who was
 31 elected to the office of governor for the first time, that governor
 32 shall submit the budget report to the legislature on or before the
 33 21st calendar day of that regular legislative session.

34 (b) The budget report of the governor shall be set up in three
 35 parts, the nature and contents of which shall include the following:

36 (1) Part one shall consist of a budget message by such governor,
 37 including the governor's recommendations with reference to the fiscal
 38 policy of the state government for the ensuing budget period, de-
 39 scribing the important features of the budget plan, embracing a
 40 general budget summary setting forth the aggregate figures of the
 41 budget so as to show the balanced relation between the total pro-
 42 posed expenditures and the total anticipated income, with the basis
 43 and factors upon which the estimates were made, and the means of

On or before July 1, 1991, and on or be-
 fore each July 1 thereafter, each state
 agency shall prepare an office and storage
 space report as a part of the budget esti-
 mate for the next budget period. Each
 office and storage space report shall be
 filed with the division of the budget not
 later than July 1 of each year and shall
 specify the office and storage space re-
 quirements of the state agency for the
 next budget period and for each of the
 four ensuing fiscal years.

or its office and storage space report

or such office and storage space report

including the office and storage space
 reports,

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1 financing the budget for the ensuing budget period, compared with
 2 the corresponding figures for at least the last completed fiscal year
 3 and the current year, and the director of the budget shall prepare
 4 the figures for the governor for such comparisons. The budget plan
 5 shall not include any proposed expenditures of anticipated income
 6 attributable to proposed legislation that would provide additional
 7 revenues from either current or new sources of revenue. ~~The budget~~
 8 ~~message shall include a report with recommendations regarding office~~
 9 ~~and storage space requirements of state agencies for the current~~
 10 ~~fiscal year and the anticipated and recommended office and storage~~
 11 ~~space requirements for the ensuing fiscal year, the third ensuing~~
 12 ~~fiscal year and the fifth ensuing fiscal year. This report of office~~
 13 ~~and storage space requirements shall include the cost estimates of~~
 14 ~~the governor's recommendations therefor, including any moving ex-~~
 15 ~~penses associated with such recommendations, and the recommended~~
 16 ~~method of funding the governor's recommendations. The general~~
 17 ~~budget summary may be supported by explanatory schedules or~~
 18 ~~statements, classifying the expenditures contained therein by state~~
 19 ~~agencies, objects, and funds, and the income by state agencies, funds,~~
 20 ~~sources and types. The general budget summary shall include all~~
 21 ~~special or fee funds as well as the state general fund, and shall~~
 22 ~~include the estimated amounts of federal aids, for whatever purpose~~
 23 ~~provided, together with estimated expenditures therefrom.~~

24 (2) Part two shall embrace the detailed budget estimates, both
 25 of expenditures and revenues, showing the requests of the state
 26 agencies, if any, and the incoming governor's recommendations
 27 thereon. It shall also include statements of the bonded indebtedness
 28 of the state, showing the actual amount of the debt service for at
 29 least the last completed fiscal year, and the estimated amount for
 30 the current fiscal year and for the next budget period, the debt
 31 authorized and unissued, and the condition of the sinking funds.

32 (3) Part three shall consist of a draft of a legislative measure or
 33 measures reflecting the incoming governor's budget.

34 (c) The division of the budget, upon request, shall furnish the
 35 governor or the legislature with any further information required
 36 concerning the budget.

37 (d) Nothing in this section shall be construed to restrict or limit
 38 the privilege of the governor to present supplemental budget mes-
 39 sages or amendments to previous budget messages, which may in-
 40 clude proposals for expenditure of new or increased sources of
 41 revenue derived from proposed legislation.

42 Sec. 3. K.S.A. 75-3717 and 75-3721 are hereby repealed.

1 Sec. 4. This act shall take effect and be in force from and after
 2 its publication in the statute book.

Commencing with the budget message sub-
 mitted under this section during the 1992
 regular session of the legislature, the

ensuing budget period

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1 based mental health services also include assistance in securing em-
2 ployment services, housing services, medical and dental care, and
3 other support services.

4 (c) "Mental health center" means any community mental health
5 center organized pursuant to the provisions of K.S.A. 19-4001 to 19-
6 4015, inclusive, and amendments thereto, or mental health clinic
7 organized pursuant to the provisions of K.S.A. 65-211 to 65-215,
8 inclusive, and amendments thereto, and licensed in accordance with
9 the provisions of K.S.A. 75-3307b and amendments thereto.

10 (d) "Secretary" means the secretary of social and rehabilitation
11 services.

12 (e) "Department" means the department of social and rehabili-
13 tation services.

14 (f) "State psychiatric hospital" means Osawatomie state hospital,
15 Rainbow mental health facility, Topeka state hospital or Larned state
16 hospital.

17 [^]New Sec. 3. In addition to powers and duties otherwise provided
18 by law, the secretary shall have the following powers and duties:

19 (a) To function as the sole state agency to develop a compre-
20 hensive plan to meet the needs of persons who have mental illness;

21 (b) to evaluate and coordinate all programs, services and facilities
22 for persons who have mental illness presently provided by agencies
23 receiving state and federal funds and to make appropriate recom-
24 mendations regarding such services, programs and facilities to the
25 governor and the legislature;

26 (c) to evaluate all programs, services and facilities within the state
27 for persons who have mental illness and determine the extent to
28 which present public or private programs, services and facilities meet
29 the needs of such persons;

30 (d) to solicit, accept, hold and administer on behalf of the state
31 any grants, devises or bequests of money, securities or property to
32 the state of Kansas for services to persons who have mental illness
33 or purposes related thereto;

34 (e) to provide consultation and assistance to communities and
35 groups developing local and area services for persons who have
36 mental illness;

37 (f) to assist in the provision of services for persons who are men-
38 tally ill in local communities whenever possible, with primary control
39 and responsibility for the provision of services with mental health
40 centers, and to assure that such services are provided in the least
41 restrictive environment;

42 (g) to adopt rules and regulations ~~which assure that no person~~
43 ~~is~~ inappropriately denied necessary mental health services from any

(g) "Mental health reform phased program" means the program in three
phases for the implementation of mental health reform in Kansas as follows:

(1) The first phase covers the counties in the Osawatomie state hospital
catchment area and is to commence on July 1, 1990, and is to be completed by
June 30, 1994;

(2) the second phase covers the counties in the Topeka state hospital
catchment area and is to commence on July 1, 1992, and is to be completed by
June 30, 1996; and

(3) the third phase covers the counties in the Larned state hospital
catchment area and is to commence on July 1, 1993, and is to be completed by
June 30, 1997.

(h) "Screening" means the process performed by a participating community
mental health center, pursuant to a contract entered into with the secretary
under section 10 and amendments thereto, to determine whether a person, under
either voluntary or involuntary procedures, can be evaluated or treated, or
can be both evaluated and treated, in the community or should be referred to
the appropriate state psychiatric hospital for such treatment or evaluation or
for both treatment and evaluation.

for targeted population members which provide that no person shall be

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and that each targeted population member shall be provided such services in the least restrictive manner

1 mental health center or state psychiatric hospital;

2 (h) to establish and implement policies and procedures within
3 the programs and activities of the department of social and reha-
4 bilitation services so that funds from the state shall follow persons
5 who are mentally ill from state facilities into community programs;

6 (i) to provide the least restrictive treatment and most appropriate
7 community based care as well as rehabilitation for Kansas residents
8 who are mentally ill persons through coordinated utilization of the
9 existing network of mental health centers and state psychiatric
10 hospitals;

11 (j) to establish standards for the provision of community support
12 services and for other community based mental health services pro-
13 vided by mental health centers in consultation with representatives
14 of mental health centers, consumers of mental health services and
15 family members of consumers of mental health services;

16 (k) to assure the establishment of specialized programs within
17 each mental health center throughout the state in order to provide
18 appropriate care for designated targeted population members;

19 (l) to establish service requirements for programs within mental
20 health centers which will ensure that targeted population members
21 receive the most effective community treatment possible;

22 (m) to ensure the development and continuation of high quality
23 community based mental health services, including programs for
24 targeted population members, in each mental health center service
25 delivery area through the provision of technical assistance, consul-
26 tation and funding;

27 (n) to establish standards for the provision of community based
28 mental health programs through community programs in consultation
29 with representatives of mental health centers, private and public
30 service providers, families and consumer advocates;

31 (o) to monitor the establishment and the continuing operation of
32 all state funded community based mental health services to ensure
33 that programs providing these services comply with established
34 standards;

35 (p) to review and approve the annual coordinated services plan
36 of each mental health center during each fiscal year ending after
37 June 30, 1991, and to withhold state funds from any mental health
38 center which is not being administered substantially in accordance
39 with the provisions of the annual coordinated services plan and
40 budget submitted to the secretary by the mental health center;

41 (q) to establish state policies for the disbursement of federal funds
42 within the state and for state administration of federal programs
43 providing services or other assistance to persons who have mental

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1 illness consistent with relevant federal law, rules and regulations,
2 policies and procedures; ~~and~~

3 ~~(t) (r)~~ to adopt such rules and regulations as may be necessary to
4 administer the provisions of sections 1 through 11 and amendments
5 thereto.

6 New Sec. 4. (a) On or before October 1, 1991, and in accordance
7 with rules and regulations adopted under section 3 and amendments
8 thereto, the secretary shall develop and adopt a state assessment of
9 needs and a plan to develop and operate a state system to provide
10 mental health services for persons who are residents of Kansas,
11 including all targeted population members designated by rules and
12 regulations adopted by the secretary. The plan for the state system
13 shall include coordinating and assisting in the provision of community
14 based mental health services in the service delivery areas of mental
15 health centers, including the services provided by state psychiatric
16 hospitals and the provision of state financial assistance. On or before
17 March 1, 1992, the secretary shall adopt a state plan for an integrated
18 system to coordinate and assist in the provision of community based
19 mental health services within Kansas. The assessment of needs and
20 plan for the state shall be reviewed and updated by the secretary
21 on an annual basis.

22 (b) The secretary shall assist and coordinate the development by
23 each mental health center of a community assessment of needs and
24 a plan for the community system to provide community based mental
25 health services for persons who reside in the service delivery area
26 of the mental health center, including all targeted population mem-
27 bers. The secretary shall review and approve, or return, with rec-
28 ommendations for revision and resubmittal, all such assessments of
29 needs and plans in accordance with criteria prescribed by rules and
30 regulations adopted under section 3 and amendments thereto. If
31 necessary services for a service delivery area cannot be provided by
32 the mental health center or in order to ensure that a continuum of
33 services will be provided in a service delivery area, the secretary
34 may require the provision of services for a service delivery area
35 through the combination of the operations of two or more mental
36 health centers or through contracts between two or more mental
37 health centers.

38 (c) Each mental health center shall annually review and update
39 such assessment of needs and plan for the service delivery area. If
40 the assessment of needs or the plan for the community system to
41 provide community based mental health services are not in com-
42 pliance with the criteria prescribed by rules and regulations under
43 section 3 and amendments thereto, the secretary shall withhold all

(r) to adopt rules and regulations to ensure the protection of persons receiving mental health services, including an appeal procedure and the designation of an impartial advocate or mediator for persons receiving mental health services;
(s) to establish procedures and systems to evaluate the results and outcomes pursuant to section 10 and amendments thereto and as otherwise provided for under this act; and

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1 or part of the state financial assistance provided to the mental health
2 center.

3 (d) On or after October 1, 1991, each mental health center shall
4 submit an annual coordinated services plan addressing the service
5 needs of the targeted population to the secretary of social and re-
6 habilitation services for review and approval. The annual coordinated
7 services plan shall be developed according to the standards estab-
8 lished by rules and regulations adopted by the secretary of social
9 and rehabilitation services.

10 New Sec. 5. (a) There is hereby established the governor's ~~com-~~
11 ~~mission on~~ mental health services. ~~The commission~~ shall consist of
12 ~~21~~ ¹³ members appointed by the governor, of which not more than ~~10~~
13 members shall be state officers or employees or providers of mental
14 health services.

15 (b) The governor shall designate the chairperson of the governor's
16 ~~commission on~~ mental health services. Each member of the gov-
17 ernor's ~~commission on~~ mental health services shall be appointed for
18 a term of four years. In the case of a vacancy on the ~~commission~~,
19 the governor shall appoint a successor for the unexpired term in the
20 same manner as the original appointment. The members of the
21 governor's ~~commission on~~ mental health services shall elect a vice-
22 chairperson.

23 (c) Members of the governor's ~~commission on~~ mental health serv-
24 ices attending meetings of the ~~commission~~, or attending a subcom-
25 mittee meeting thereof authorized by the ~~commission~~, shall be paid
26 amounts provided in subsection (c) of K.S.A. 75-3223 and amend-
27 ments thereto.

28 New Sec. 6. (a) The governor's ~~commission on~~ mental health
29 services shall hold regular quarterly meetings and such other meet-
30 ings as the chairperson of such ~~commission~~ deems advisable, and in
31 addition shall meet at such other times upon the call of the secretary
32 of social and rehabilitation services.

33 (b) It is the duty of the governor's ~~commission on~~ mental health
34 services to:

- 35 (1) Confer, advise and consult with the secretary with respect to
- 36 the policies governing the management and operation of all state
- 37 psychiatric hospitals and facilities and community based mental
- 38 health services;
- 39 (2) serve as an advocate for targeted population members and
- 40 other individuals with mental illness or emotional problems;
- 41 (3) monitor, review and evaluate, not less than once each year,
- 42 the allocation and adequacy of mental health services within the
- 43 state;

The members shall be appointed by the governor so that the composition of the
council is in compliance with the requirements of public law 99-660 a
supplementary federal acts and in accordance with the following:

- (1) Eight members shall be representatives of state agencies;
- (2) one member shall be a representative of private mental health service
providers;
- (3) two members shall be members of governing boards of mental health
centers;
- (4) two members shall be executive directors of mental health centers;
and
- (5) fourteen members shall be members of the general public and shall be,
mostly, consumers of mental health services and family members of mentally ill
persons.

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1 (4) perform such other planning , reviewing and evaluating of
2 mental health services in this state, as may be requested by the
3 secretary or as may be prescribed by law; and

4 (5) consult with and advise the governor, from time to time, with
5 reference to the management, conduct and operation of state psy-
6 chiatric hospitals and mental health programs.

7 (c) A member or members of the governor's ~~commission on~~ men-
8 tal health services, from time to time, shall visit each state psychiatric
9 hospital and may visit other providers of community based mental
10 health services for the purpose of inspecting the state psychiatric
11 hospital, mental health center or the facility of other such providers
12 of community based mental health services. Such visits shall be made
13 at such times and in such manner as the ~~commission~~ determines at
14 a regular meeting.

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15 (d) The governor's ~~commission on~~ mental health services shall
16 make annual reports to the governor and the members of the leg-
17 islature and may make such recommendations as it deems advisable
18 for appropriate legislation.

19 New Sec. 7. On or before March 1, 1991, the secretary shall
20 transfer those powers, duties, functions of adult services, which are
21 part of the home and community based services program or the adult
22 services community and day living program, or similar programs,
23 and which provide mental health services to persons, including per-
24 sons residing in intermediate care facilities that provide mental health
25 services, to mental health and retardation services.

26 New Sec. 8. (a) On or before October 1, 1991, and in accordance
27 with rules and regulations adopted by the secretary each mental
28 health center shall prepare and adopt a community assessment of
29 needs and a plan to provide community based mental health services
30 for persons who are residents of the service delivery area of the
31 mental health center and shall submit such assessment of needs and
32 plan to the secretary for approval. Among other provisions, such
33 plan shall include the provision of services to all targeted population
34 members who apply therefor.

35 (b) Each mental health center shall conduct periodic reviews of
36 the community assessment of needs for the service delivery area and
37 shall report at least annually to the secretary the results of such
38 reviews and any amendments to the community assessment of needs
39 or the plan to provide community based mental health services which
40 are adopted. The amendments to such plan shall be subject to ap-
41 proval by the secretary in accordance with criteria prescribed by
42 rules and regulations adopted by the secretary.

43 (c) Prior to October 1, 1991, the secretary shall adopt rules and

1 regulations prescribing guidelines for the conduct of community as-
2 sements of need, for the development and operation of systems to
3 provide community based mental health services within the service
4 delivery area of the mental health center, and for periodic reporting
5 to the secretary on the operations under such systems in accordance
6 with this act.

7 New Sec. 9. (a) Each mental health center may provide com-
8 munity based mental health services under the system established
9 in accordance with this act and approved by the secretary either by
10 directly providing such services or by providing such services through
11 contracts with service providers, including other mental health cen-
12 ters, or both directly and through contracts with such service
13 providers.

14 (b) Subject to and in accordance with the provisions of this act
15 and appropriations acts, the secretary shall assist in the establishment
16 and development of community based mental health services in each
17 county by providing counties and mental health centers with tech-
18 nical assistance and financial assistance.

19 New Sec. 10. (a) Prior to March 1, 1992, the secretary shall
20 enter into contracts with mental health centers so that there is a
21 participating mental health center for each area of the state. Each
22 mental health center entering into a contract with the secretary shall
23 provide court ordered evaluation and treatment services pursuant to
24 the treatment for mentally ill persons and shall be known as a
25 participating mental health center.

26 (b) Subject to the provisions of this act and appropriations acts,
27 the secretary shall administer and disburse funds to each mental
28 health center for the coordination and provision of mental health
29 services for all persons who are residents of the service delivery area
30 of such mental health center.

31 New Sec. 11. Subject to applicable federal guidelines and reg-
32 ulations and the provisions of appropriations acts, the secretary ~~of~~
33 ~~Social and rehabilitation services shall~~ negotiate and enter into a
34 contract for a pilot project to be conducted during the fiscal year
35 ending June 30, ~~1991. The pilot project shall~~ be conducted to provide
36 the medicaid services related to psychiatric and substance abuse
37 services for Kansas medicaid eligible residents who are less than 21
38 years of age on the basis of a described set of such services to a
39 predetermined population as prescribed by the contract. The contract
40 shall not be subject to the competitive bid requirements of K.S.A.
41 75-3739 and amendments thereto. The services to be provided for
42 such residents under the contract shall include but not be limited
43 to case management services, day treatment, outpatient services and

(c) Subject to and in accordance with the provisions of this act and
appropriations acts, the secretary shall undertake, in cooperation with
participating mental health centers, establishment and implementation of the
mental health reform phased program.

(1) Beginning with the Osawatomie state hospital catchment area, the
secretary shall enter into contracts with participating mental health centers
to reduce the rated bed capacity of the Osawatomie state hospital as follows:

(A) One unit of 20 to 30 beds for adults shall be closed by June 30,
1991;

(B) by June 30, 1992, an additional unit or units comprising 20 to 30
beds shall be closed for adolescents; and

(C) by June 30, 1993, an additional unit or units comprising 20 to 30
adult beds shall be closed.

(2) The secretary shall enter into contracts with participating mental
health centers to reduce the rated bed capacity of Topeka state hospital as
follows:

(A) One or more units comprising 20 to 30 adolescent beds shall be closed
by June 30, 1993;

(B) an additional unit or units comprising 20 to 30 adult beds shall be
closed by June 30, 1994; and

(C) an additional unit or units comprising 20 to 30 adult beds shall be
closed by June 30, 1995.

(2) The secretary shall enter into contracts with participating mental
health centers to reduce the rated bed capacity of Larned state hospital by
closing one or more units comprising 20 to 30 adult beds in each of the fiscal
years ending June 30, 1994, June 30, 1995, and June 30, 1996.

(d) The staff of each state psychiatric hospital and the staff of the
participating mental health centers in the catchment area of the state
psychiatric hospital shall develop and implement admission and discharge
criteria for all patients. The provisions of this section shall be
incorporated into all contracts entered into between the secretary and the
participating mental health centers.

may

1992. If the secretary conducts a pilot project under this section, the pilot
program may
project

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1 emergency services. The contract ~~shall~~ be entered into by the sec-
 2 retary with a single mental health center or with a contracting agency
 3 to provide such services through a mental health center or other
 4 qualified service providers, or both, within an area of Kansas de-
 5 termined by the secretary. In determining the location of the pilot
 6 project and the area in which such services shall be provided, the
 7 secretary shall consider both those areas in which such services are
 8 being provided currently for such residents by mental health centers
 9 and those areas of Kansas in which such services can be provided
 10 for such residents at the time the pilot project is to commence under
 11 the contract. The secretary shall submit a preliminary report on the
 12 results of the pilot project to the committee on ways and means of
 13 the senate and the committee on appropriations of the house of
 14 representatives at the beginning of the ~~1991~~ regular session of the
 15 legislature. The secretary shall submit additional reports and infor-
 16 mation regarding the pilot project as requested by such committees
 17 during such legislative session.

may

1992

18 Sec. 12. On April 1, 1991, K.S.A. 19-4002 is hereby amended
 19 to read as follows: 19-4002. (a) (1) Except as provided by K.S.A.
 20 ~~1986 Supp. 19-4002a and 19-4002b and amendments thereto~~, every
 21 county which establishes a mental health center or facility for the
 22 mentally retarded shall establish a community mental health or men-
 23 tal retardation governing board. Every county which wants to es-
 24 tablish such board for the purpose of allowing such board to contract
 25 with a nonprofit corporation to provide services for the mentally
 26 retarded may establish a mental retardation governing board in ac-
 27 cordance with the provisions of this section. Any board established
 28 under this subsection shall be referred to as the governing board.
 29 The governing board shall be composed of not less than seven mem-
 30 bers. The members of such governing board shall be appointed by
 31 and shall serve at the pleasure of the board of county commissioners
 32 of the county.

33 (2) When any combination of counties desires to establish a men-
 34 tal health center or facility for the mentally retarded, the chairperson
 35 of the board of the county commissioners of each participating county
 36 shall appoint two members to a selection committee, which com-
 37 mittee shall select the first governing board. Each participating
 38 county shall have at least one representative on such board.

39 (b) Membership of each governing board, as nearly as possible,
 40 shall be representative of public health, medical profession, the ju-
 41 diciary, public welfare, hospitals, mental health organizations and
 42 mental retardation organizations, as well as education, rehabilitation,
 43 labor, business, civic groups, *family members of mentally ill persons*,

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1 representatives of mental health consumer groups and the general
2 public.

, and, in each case of a governing board for a mental health center,
the membership of the governing board shall include consumers of mental
health services and family members of mentally ill persons

3 (c) Should the board or boards of county commissioners be de-
4 sired of providing both mental health services and services for the
5 mentally retarded in accordance with the provisions of this act, and
6 determine it is more practical to establish a single governing board
7 for mental health services and mental retardation facilities, then the
8 respective board or boards of commissioners may establish a single
9 board. In the event the board or boards of county commissioners
10 determine that separate boards are more practical, then the re-
11 spective board or boards of county commissioners may establish a
12 governing board for a mental health center and a separate board for
13 mental retardation facilities.

14 Sec. 13. On April 1, 1991, K.S.A. 19-4002a is hereby amended
15 to read as follows: 19-4002a. (a) In lieu of appointing a governing
16 board as provided by K.S.A. 19-4002, and amendments thereto, the
17 board of county commissioners of Sedgwick county may serve as the
18 community mental health or mental retardation governing board for
19 Sedgwick.

20 (b) If the board of county commissioners elects to serve as the
21 governing board pursuant to this section, the board of county com-
22 missioners shall appoint a mental health and mental retardation ad-
23 visory board of not less than seven members. Members of the
24 advisory board shall serve at the pleasure of the board of county
25 commissioners. Membership of the advisory board, as nearly as pos-
26 sible, shall be representative of public health, medical profession,
27 the judiciary, public welfare, hospitals and mental health organiza-
28 tions and education, rehabilitation, labor, business and civic groups.

shall include consumers of mental health services and family members of
mentally ill persons

29 ~~(family members of mentally ill persons and representatives of mental~~
30 ~~health consumer groups).~~

31 (c) The board of county commissioners, as the mental health or
32 mental retardation governing board, shall seek the recommendations
33 of the mental health and mental retardation advisory board prior to
34 adopting the annual plan and budget for county mental health and
35 retardation programs.

36 Sec. 14. On April 1, 1991, K.S.A. 19-4002b is hereby amended
37 to read as follows: 19-4002b. (a) In lieu of appointing a governing
38 board as provided by K.S.A. 19-4002 and amendments thereto, the
39 board of county commissioners of Johnson county may serve as the
40 community mental health or mental retardation governing board for
41 Johnson county.

42 (b) If the board of county commissioners elects to serve as the
43 governing board pursuant to this section, the board of county com-

missioners shall appoint a mental health and mental retardation advisory board of not less than seven members. Members of the advisory board shall serve at the pleasure of the board of county commissioners. Membership of the advisory board as nearly as possible, shall be representative of public health, medical profession, the judiciary, public welfare, hospitals and mental health organizations and education, rehabilitation, labor, business and civic groups.

shall include consumers of mental health services and family members of mentally ill persons and

~~family members of mentally ill persons and representatives of mental health consumer groups~~

(c) The board of county commissioners, as the mental health or mental retardation governing board, shall seek the recommendations of the mental health and mental retardation advisory board prior to adopting the annual plan and budget for county mental health and retardation programs.

Sec. 15. On April 1, 1991, K.S.A. 1989 Supp. 59-2901 is hereby amended to read as follows: 59-2901. ~~This act~~ *The provisions of K.S.A. 59-2901 through 59-2941 and amendments thereto and K.S.A. 1989 Supp. 59-2943 and* ~~section 27~~ *and amendments thereto* shall be known and may be cited as the treatment act for mentally ill persons.

sections 27 and 28

Sec. 16. On April 1, 1991, K.S.A. 1989 Supp. 59-2902 is hereby amended to read as follows: 59-2902. When used in ~~this~~ *the treatment act for mentally ill persons*:

(a) "Conditional release" means release of a patient who has not been discharged but who is permitted by the head of the treatment facility to live apart from the treatment facility pursuant to K.S.A. 59-2924 and amendments thereto.

(b) "Discharge" means the final and complete release from treatment, by either an order of a court pursuant to K.S.A. 59-2923 and amendments thereto or a treatment facility.

(c) "Head of the treatment facility" means the administrative director of a treatment facility or such person's designee.

(d) "Involuntary patient" means a mentally ill person who is receiving treatment under order of a court of competent jurisdiction.

(e) "Lacks capacity to make an informed decision concerning treatment" means that the person, by reason of the person's mental disorder or condition, is unable, despite conscientious efforts at explanation, to understand basically the nature and effects of hospitalization or treatment or is unable to engage in a rational decision-making process regarding hospitalization or treatment, as evidenced by inability to weigh the possible risks and benefits.

(f) "Law enforcement officer" means any sheriff, regularly employed deputy sheriff, state highway patrol officer, regularly em-

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1 ployed city police officer, law enforcement officer of any county law
2 enforcement department or regularly employed police officer of any
3 university, community college or Haskell institute, if such police
4 officer of a university, community college or Haskell institute has
5 completed not less than 320 hours of law enforcement instruction at
6 the law enforcement training center or in a training program ap-
7 proved under K.S.A. 74-5604a and amendments thereto.

8 (g) "Likely to cause harm to self or others" means that the person:

9 (1) Is likely, in the reasonably foreseeable future, to cause sub-
10 substantial physical injury or physical abuse to self or others or sub-
11 substantial damage to another's property, as evidenced by behavior
12 causing, attempting or threatening such injury, abuse or damage; or

13 (2) is substantially unable, except for reason of indigency, to
14 provide for any of the person's basic needs, such as food, clothing,
15 shelter, health or safety causing a substantial deterioration of the
16 person's ability to function on the person's own.

17 (h) "Mentally ill person" means any person who:

18 (1) Is suffering from a severe mental disorder to the extent that
19 such person is in need of treatment;

20 (2) lacks capacity to make an informed decision concerning treat-
21 ment; and

22 (3) is likely to cause harm to self or others.

23 No person who is being treated by prayer in the practice of the
24 religion of any church which teaches reliance on spiritual means
25 alone through prayer for healing shall be determined to be a mentally
26 ill person unless substantial evidence is produced upon which the
27 district court finds that the proposed patient is likely, in the rea-
28 sonably foreseeable future, to cause substantial physical injury or
29 physical abuse to self or others or substantial damage to another's
30 property, as evidence by behavior causing, attempting or threatening
31 such injury, abuse or damage.

32 (i) "Patient" means a person who is a voluntary patient, a pro-
33 posed patient or an involuntary patient.

34 (j) "Physician" means a person licensed to practice medicine and
35 surgery as provided by the Kansas healing arts act or a person who
36 is employed by a Kansas state hospital or by an agency of the United
37 States and who is authorized by either government to practice med-
38 icine and surgery.

39 (k) "Proposed patient" means a person for whom an application
40 pursuant to K.S.A. 59-2913 and amendments thereto has been filed.

41 (l) "Psychologist" means a ~~certified~~ licensed psychologist, as de-
42 fined by K.S.A. 74-5302 and amendments thereto.

43 (m) "Restraints" means the application of any devices, other than

1 human force alone, to any parts of the body of the patient for the
2 purpose of preventing the patient from causing injury to self or
3 others.

4 (n) "Seclusion" means the placement of a patient, alone, in a
5 locked room, where the patient's freedom to leave is restricted and
6 where the patient is not under continuous observation.

7 (o) "Severe mental disorder" means a clinically significant be-
8 havioral or psychological syndrome or pattern associated with either
9 a painful symptom or serious impairment in one or more important
10 areas of functioning and involving substantial behavioral, psychologic
11 or biologic dysfunction. "Severe mental disorder" does not include
12 a condition which is caused by the use of chemical substances or
13 for which the primary diagnosis is antisocial personality.

14 (p) "Treatment" means any service intended to promote the men-
15 tal health of the patient and rendered by a qualified professional
16 licensed or certified by the state to provide such service as an
17 independent practitioner or under the supervision of such
18 practitioner.

19 (q) "Treatment facility" means any mental health center or clinic,
20 psychiatric unit of a medical care facility, psychologist, physician or
21 other institution or individual authorized or licensed by law to pro-
22 vide either inpatient or outpatient treatment to any patient.

23 (r) "Voluntary patient" means a person who is receiving treatment
24 at a treatment facility other than by order of any court.

25 (s) The terms defined in K.S.A. 59-3002 and amendments thereto
26 shall have the meanings provided by that section.

27 (t) "Mental health center" means any community mental health
28 center organized pursuant to the provisions of K.S.A. 19-4001
29 through 19-4015, and amendments thereto, or mental health clinic
30 organized pursuant to the provisions of K.S.A. 65-211 through 65-
31 215, and amendments thereto, and licensed in accordance with the
32 provisions of K.S.A. 75-3307b and amendments thereto.

33 (u) "Participating mental health center" means a mental health
34 center which has entered into a contract with the secretary of social
35 and rehabilitation services to provide court ordered evaluation and
36 treatment services pursuant to the treatment act for mentally ill
37 persons.

38 (v) "State psychiatric hospital" means Larned state hospital, Os-
39 awatomie state hospital, Rainbow mental health facility and Topeka
40 state hospital.

41 (w) "Qualified mental health professional" means (1) a physician
42 or psychologist who is employed by a participating mental health
43 center or who is providing services as a physician or psychologist,

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1 *respectively, under a contract with a participating mental health*
2 *center, or (2) a registered masters level psychologist or a licensed*
3 *specialist clinical social worker or licensed master social worker who*
4 *is employed by a participating mental health center and who is acting*
5 *under the supervision of a physician.*

6 (x) "Registered masters level psychologist" means a person reg-
7 istered as a registered masters level psychologist by the behavioral
8 sciences regulatory board under K.S.A. 1989 Supp. 74-5361 through
9 74-5373 and amendments thereto.

10 (y) "Licensed specialist clinical social worker" means a person
11 licensed in the clinical social work practice specialty by the behav-
12 ioral sciences regulatory board under K.S.A. 1989 Supp. 65-6301
13 through 65-6318 and amendments thereto.

14 (z) "Licensed master social worker" means a person licensed as
15 a master social worker by the behavioral sciences regulatory board
16 under K.S.A. 1989 Supp. 65-6301 through 65-6318 and amendments
17 thereto.

18 (aa) "Secretary" means the secretary of social and rehabilitation
19 services.

20 Sec. 17. On April 1, 1991, K.S.A. 59-2905 is hereby amended
21 to read as follows: 59-2905. (a) Any person may be admitted to a
22 treatment facility as a voluntary patient when there are available
23 accommodations and in the judgment of the head of the treatment
24 facility or his or her designee determines such person is in need
25 of treatment therein, except that no such person shall be admitted
26 to a state psychiatric hospital without a written statement authorizing
27 such admission from a qualified mental health professional. Such
28 person, if eighteen (18) 18 years of age or older, shall make written
29 application for admission. If such person is less than eighteen (18)
30 18 years of age, then the parent or person in loco parentis to such
31 person may make such written application. If such person is fourteen
32 (14) 14 years of age or over, such person may make such written
33 application on his or her such person's own behalf without the
34 consent or written application of such person's parent, guardian or
35 any other person. In any case, if such person is over eighteen (18)
36 18 years of age or older and has a guardian, the guardian shall make
37 such application. The head of the treatment facility or his or her
38 designee may require a statement of such person's attending phy-
39 sician or a statement of the local health officer of the area in which
40 such person resides that such person is in need of treatment in a
41 treatment facility. Whenever a minor fourteen (14) who is 14 years
42 of age or older makes written application on his or her such minor's
43 own behalf and is admitted as a voluntary patient, the head of the

, except that such person may be placed in a treatment facility pursuant to an application by a guardian only after a hearing conducted in accordance with the provisions of K.S.A. 59-2917 and amendments thereto and a finding by the court under that section that such person is in need of treatment at a treatment facility

1 treatment facility shall promptly notify the minor's parent or other
2 person *in loco parentis* of the admittance of such minor.

3 (b) No person shall be admitted as a voluntary patient under the
4 provisions of this act to any treatment facility unless the head of the
5 treatment facility or his or her designee has informed such person
6 or such person's parent, guardian or person *in loco parentis* in writing
7 of the following: (a)

8 (1) The rules and procedures of the treatment facility relating to
9 the discharge of voluntary patients; (b)

10 (2) the legal rights of a voluntary patient receiving treatment
11 from a treatment facility; and (c)

12 (3) the types of treatment which are available to the voluntary
13 patient from the treatment facility.

14 Sec. 18. On April 1, 1991, K.S.A. 1989 Supp. 59-2908 is hereby
15 amended to read as follows: 59-2908. (a) Any law enforcement officer
16 who has reasonable belief upon observation that any person is a
17 mentally ill person and because of such person's illness is likely to
18 cause harm to self or others if allowed to remain at liberty may take
19 the person into custody without a warrant. The officer shall transport
20 the person to any treatment facility where the person shall be ex-
21 amined by a physician or psychologist on duty at such the treatment
22 facility, except that no person shall be transported to a state psy-
23 chiatric hospital for examination unless a written statement recom-
24 mending evaluation at a state psychiatric hospital has been obtained
25 from a qualified mental health professional. If no physician or psy-
26 chologist is on duty at the time the person is transported to the
27 treatment facility, the person shall be so examined within a reason-
28 able time not to exceed ~~24~~ 12 hours. If a written statement is made
29 by the physician or psychologist at the treatment facility that after
30 preliminary examination the physician or psychologist believes the
31 person to be a mentally ill person and because of the person's illness
32 is likely to cause harm to self or others if allowed to remain at
33 liberty, and if the treatment facility is willing to admit the person,
34 the law enforcement officer shall present to the treatment facility
35 the application provided for in subsection (b) of K.S.A. 59-2909 and
36 amendments thereto. If the physician or psychologist on duty at the
37 treatment facility does not believe the person to be a mentally ill
38 person, the law enforcement officer shall release the person.

39 (b) If the physician or psychologist on duty at the treatment
40 facility states that the physician or psychologist believes, in the
41 physician's or psychologist's opinion, the person to be is a mentally
42 ill person but the treatment facility is unwilling to admit the person,
43 ~~For if~~ there is no treatment facility available to receive the person

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the treatment facility shall provide a suitable facility in which the person may be detained by the law enforcement officer until the close of the first day the district court of the county is open for the transaction of business unless the court orders that the person remain in custody pursuant to the provisions of K.S.A. 59-2912 and amendments thereto. If

1 within the territorial limits of the law enforcement officer's jurisdic-
 2 tion, the law enforcement officer may detain the person in any other
 3 suitable place until the close of the first day the district court of the
 4 county is open for the transaction of business, unless the court orders
 5 that the person remain in custody pursuant to the provisions of
 6 K.S.A. 59-2912 and amendments thereto. If a law enforcement officer
 7 detains a person pursuant to this subsection, the law enforcement officer
 8 shall file the application provided for in subsection (a) of
 9 K.S.A. 59-2912 and amendments thereto, as soon as the court is
 10 open for the transaction of business. ^

No person shall be detained by a law enforcement officer pursuant to this subsection in a nonmedical facility used for the detention of persons charged with or convicted of a crime

11 Sec. 19. On April 1, 1991, K.S.A. 1989 Supp. 59-2912 is hereby
 12 amended to read as follows: 59-2912. (a) A district court may issue
 13 an order of protective custody upon the verified application of any
 14 law enforcement officer or other individual, *except that no order of*
 15 *protective custody shall be issued pursuant to this section to a state*
 16 *psychiatric hospital unless the district court has obtained a written*
 17 *recommendation for such admission from a qualified mental health*
 18 *professional. The application shall state:*

- 19 (1) The name and address of the person with respect to whom
 20 the order is sought, if known;
- 21 (2) the name and address of the person's spouse, legal counsel
 22 or nearest relative, if known;
- 23 (3) the affiant's belief that the person is a mentally ill person and
 24 because of the person's illness is likely to cause harm to self or others
 25 if not immediately detained;
- 26 (4) the factual allegations upon which subsection (a)(3) is based;
 27 and
- 28 (5) that the application provided for in K.S.A. 59-2913 and
 29 amendments thereto has been filed.

30 An order of *protective custody* issued under this subsection shall
 31 only be valid until 5:00 p.m. of the second full day the district court
 32 is open for the transaction of business after the date of issuance.
 33 The district court shall not issue successive orders of protective
 34 custody pursuant to this subsection.

35 (b) A district court may issue an order of protective custody upon
 36 the verified application of any person, if the application provided
 37 for in K.S.A. 59-2913 and amendments thereto has been filed in the
 38 court, and the court has found following a hearing that there is
 39 probable cause to believe that the person with respect to whom the
 40 application has been filed is a mentally ill person, *except that no*
 41 *order of protective custody shall be issued pursuant to this section*
 42 *to a state psychiatric hospital unless the district court has obtained*
 43 *a written recommendation for such admission from a qualified mental*

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1 *health professional.* No order of protective custody shall be issued
2 pursuant to this subsection until the court has held a hearing to
3 determine probable cause, which hearing shall be held not later than
4 5:00 p.m. of the second full day the district court is open for the
5 transaction of business after the filing of the application provided for
6 by K.S.A. 59-2913 and amendments thereto. The person with respect
7 to whom the application has been filed shall be present at the
8 hearing, unless the attorney for the person requests that the person's
9 presence be waived and the court finds that the person's presence
10 at the hearing would be injurious to the person's welfare. The court
11 shall enter in the record of the proceedings the facts upon which
12 the court has found that the presence of the person at the hearing
13 would be injurious to such person's welfare. Notwithstanding the
14 foregoing provisions of this subsection, if the person with respect to
15 whom the application has been filed requests in writing to the court
16 or to such person's attorney that the person be present at the hearing,
17 the person's presence cannot be waived.

18 (c) The applicant and the person with respect to whom the ap-
19 plication has been filed shall be notified of the time and place of
20 the hearing and afforded an opportunity to appear at the hearing,
21 to testify and to present and cross-examine witnesses. If the person
22 with respect to whom the application has been filed has not retained
23 an attorney, the court shall appoint an attorney for the person in
24 the same manner as an attorney is appointed under the provisions
25 of K.S.A. 59-2914 and amendments thereto. All persons not nec-
26 cessary for the conduct of the proceedings may be excluded. The
27 hearing shall be conducted in as informal a manner as may be
28 consistent with orderly procedure and in a physical setting not likely
29 to have a harmful effect on the person with respect to whom the
30 application has been filed. The court shall receive all relevant and
31 material evidence which may be offered. The rules governing evi-
32 dentiary and procedural matters at hearings under this section shall
33 be applied so as to facilitate informal, efficient presentation of all
34 relevant, probative evidence and resolution of issues with due regard
35 to the interests of all parties. The facts or data upon which a duly
36 qualified expert bases an opinion or inference may be those perceived
37 by or made known to the expert at or before the hearing. If of a
38 type reasonably relied upon by experts in a particular field in forming
39 opinions or inferences upon the subject, the facts or data need not
40 be admissible in evidence. The expert may testify in terms of opinion
41 or inference and give the expert's reasons therefor without prior
42 disclosure of the underlying facts or data unless the court requires
43 otherwise. The expert may in any event be required to disclose the

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1 underlying facts or data on cross examination. If the applicant is not
2 represented by counsel, the county or district attorney shall rep-
3 resent the applicant, prepare all necessary papers, appear at the
4 hearing and present such evidence as the county or district attorney
5 determines to be of aid to the court in determining whether or not
6 there is probable cause to believe that the person with respect to
7 whom the application has been filed is a mentally ill person.

8 If the court determines from the evidence that there is probable
9 cause to believe that the person with respect to whom the application
10 has been filed is a mentally ill person, the court shall issue an order
11 of protective custody; otherwise, the court shall terminate the
12 proceedings.

13 (d) The order of protective custody issued pursuant to provisions
14 of this section may authorize a health officer, physician, law en-
15 forcement officer or other person to take the person with respect to
16 whom the application has been filed into custody and to transport
17 and place the person in a designated treatment facility or other
18 suitable place willing to receive the person and may designate the
19 place of detention, but no person shall be detained in protective
20 custody in a nonmedical facility used for the detention of persons
21 charged with or convicted of a crime ~~unless other facilities are not~~
22 ~~available~~. In lieu of such detention, the order of protective custody
23 may allow the person with respect to whom the application has been
24 filed to be at liberty, subject to such conditions as the court may
25 impose, pending the hearing provided for in K.S.A. 59-2917 and
26 amendments thereto.

27 Sec. 20. On April 1, 1991, K.S.A. 1989 Supp. 59-2914 is hereby
28 amended to read as follows: 59-2914. (a) Upon the filing of the
29 application provided for in K.S.A. 59-2913 and amendments thereto,
30 the district court shall issue the following:

31 (1) An order fixing the time and place of the hearing on the
32 application. Such hearing, in the court's discretion, may be con-
33 ducted in the courtroom, a treatment facility or other suitable place.
34 The time designated in the order shall in no event be earlier than
35 seven days or later than 14 days after the date of the filing of the
36 application, except that if the proposed patient absents the patient's
37 self and the service of the notice on the proposed patient cannot be
38 served because of the absence, the time of absence shall not be
39 included in computing the time of the expiration of the fourteen-
40 day limitation above set out.

41 (2) An order that the proposed patient appear at the time and
42 place of the hearing. The proposed patient shall be present at the
43 hearing, unless the attorney for the proposed patient requests that

1 the proposed patient's presence be waived and the court finds that
2 the proposed patient's presence at the hearing would be injurious
3 to the proposed patient's welfare. The court shall enter in the record
4 of the proceedings the facts upon which the court has found that
5 the presence of the proposed patient at the hearing would be in-
6 jurious to the proposed patient's welfare. Notwithstanding the fore-
7 going provisions of this subsection, if the proposed patient requests
8 in writing to the court or to such person's attorney that the proposed
9 patient be present at the hearing, the proposed patient's presence
10 cannot be waived.

11 (3) An order appointing an attorney to represent the proposed
12 patient at all stages of the proceedings and until all orders resulting
13 from such proceedings are terminated. The court shall give prefer-
14 ence, in the appointment of the attorney, to any attorney who has
15 represented the proposed patient in other matters if the court has
16 knowledge of the prior relationship. The proposed patient shall have
17 the right to engage an attorney of the proposed patient's own choice
18 and, in such event, the attorney appointed herein shall be relieved
19 of all duties by the court.

20 (4) An order that the proposed patient shall appear at a time
21 and place that is in the best interests of the patient to consult with
22 the proposed patient's court-appointed attorney, which time shall be
23 at least five days prior to the date set for the hearing under K.S.A.
24 59-2917 and amendments thereto.

25 (5) A notice in the manner provided for in K.S.A. 59-2916 and
26 amendments thereto.

27 (6) Upon the motion of any party or on the court's own motion,
28 an order of investigation, which investigation may inquire into the
29 proposed patient's character, family relationships and past conduct;
30 whether or not the proposed patient is likely to cause harm to self
31 or others if allowed to remain at liberty; and other pertinent factors.
32 The court may designate a treatment facility, licensed social worker,
33 court services officer or social service agency to make such inves-
34 tigation and to promptly make a written report to the court, which
35 report shall be made available only to counsel for the parties at least
36 five days prior to the date set for the hearing under K.S.A. 59-2917
37 and amendments thereto, *except that no order for investigation shall*
38 *designate a state psychiatric hospital. The court may designate a*
39 *qualified mental health professional or a case manager employed by*
40 *a participating mental health center to conduct an investigation pur-*
41 *suant to this section.*

42 (7) Upon the motion of any party, containing those statements
43 required by K.S.A. 59-3009 and amendments thereto, orders nec-

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1 essary to make a determination of the need for a guardian or con-
2 servator, or both, to act on behalf of the proposed patient. For the
3 purposes of determining whether a guardian or conservator is
4 needed, the hearings required by K.S.A. 59-2917 and 59-3013, and
5 amendments thereto, may be consolidated.

6 (b) Nothing in this section shall prevent the court from granting
7 an order of continuance, for good cause shown, to either party for
8 no longer than seven days, except that such limitation does not apply
9 to a request for an order of continuance made by the proposed
10 patient. The court also, upon request by either party, may advance
11 the date of the hearing if necessary in the interests of all concerned.

12 Sec. 21. On April 1, 1991, K.S.A. 1989 Supp. 59-2914a is hereby
13 amended to read as follows: 59-2914a. (a) After the filing of the
14 application provided for in K.S.A. 59-2913 and amendments thereto
15 and prior to the hearing provided for in K.S.A. 59-2917 and amend-
16 ments thereto, the court shall issue an order for mental evaluation.
17 The order of mental evaluation shall be served in the manner pro-
18 vided for in K.S.A. 59-2916 and amendments thereto. It shall order
19 the proposed patient to submit to a mental evaluation and to undergo
20 such evaluation as may be designated by the court in the order,
21 except that any proposed patient who is not under an order of
22 protective custody issued pursuant to K.S.A. 59-2912 and amend-
23 ments thereto and who requests a hearing pursuant to subsection
24 (b), need not submit to such evaluation until the hearing has been
25 held and the court finds that there is probable cause to believe that
26 the proposed patient is a mentally ill person. The evaluation may
27 be held at a treatment facility, the home of the proposed patient or
28 such other suitable place that the court determines is not likely to
29 have a harmful effect on the health of the proposed patient. A state
30 psychiatric hospital shall ~~receive and not be ordered to evaluate~~
31 any proposed patient ~~ordered evaluated therein~~, unless the court
32 has been informed in writing that the evaluation cannot be performed
33 at a participating mental health center. The written authorization
34 to have the evaluation performed at a state psychiatric hospital must
35 be presented to the court by the administrator of the participating
36 mental health center or by a qualified mental health professional.

37 (b) Whenever a proposed patient requests a hearing pursuant to
38 subsection (a), the hearing shall be held within a reasonable time
39 thereafter. The applicant and the proposed patient shall be notified
40 of the time and place of the hearing, afforded an opportunity to
41 testify, and to present and cross-examine witnesses. The proposed
42 patient shall be present at the hearing, and the patient's presence
43 cannot be waived. All persons not necessary for the conduct of the

1 proceedings may be excluded. The hearing shall be conducted in as
2 informal a manner as may be consistent with orderly procedure and
3 in a physical setting not likely to have a harmful effect on the
4 proposed patient. The court shall receive all relevant and material
5 evidence which may be offered. If the applicant is not represented
6 by counsel, the county or district attorney shall represent the ap-
7 plicant, prepare all necessary papers, appear at the hearing and
8 present such evidence as is determined to be of aid to the court in
9 determining whether or not there is probable cause to believe that
10 the proposed patient is a mentally ill person. If the court determines
11 from the evidence that there is probable cause to believe that the
12 proposed patient is a mentally ill person, the court shall issue the
13 order of mental evaluation; otherwise, the court shall terminate all
14 proceedings. At the time designated by the court in the order, but
15 in no event later than three days prior to the date of the hearing
16 provided for in K.S.A. 59-2917 and amendments thereto, the ex-
17 aminer shall submit to the court a report, in writing, of the evaluation
18 which report also shall be made available to counsel for the parties
19 at least three days prior to such hearing. The report also shall be
20 made available to the proposed patient and to whomever the patient
21 directs, unless for good cause recited in the order, the court orders
22 otherwise. Such report shall state that the examiner has made an
23 examination of the proposed patient and shall state the results of
24 the examination on the issue of whether the proposed patient is a
25 mentally ill person and the examiner's opinion as to the least re-
26 strictive treatment alternative which will protect the proposed patient
27 and others and allow for the improvement of the proposed patient.

28 Sec. 22. On April 1, 1991, K.S.A. 1989 Supp. 59-2916 is hereby
29 amended to read as follows: 59-2916. (a) The notice required by
30 K.S.A. 59-2914 and amendments thereto shall be given to the pro-
31 posed patient named in the application, the attorney appointed pur-
32 suant to K.S.A. 59-2914 and amendments thereto and such other
33 persons as the court directs. *The notice shall also be given to the*
34 *participating mental health center which has jurisdiction over the*
35 *county where the proposed patient is located.*

36 (b) The notice shall state:

37 (1) That an application has been filed, alleging that the proposed
38 patient is a mentally ill person and requesting that the court order
39 treatment;

40 (2) the time and place of the hearing;

41 (3) the name of the attorney appointed to represent the proposed
42 patient and the time and place where the proposed patient shall
43 consult with such attorney; and

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1 (4) that the proposed patient has a right to demand a hearing
2 before a jury.

3 (c) The court may order any of the following to serve the notice:

4 (1) The physician or psychologist currently administering to the
5 proposed patient, if the physician or psychologist consents;

6 (2) the head of the local mental health clinic or the designee
7 thereof;

8 (3) the local health officer or such officer's designee;

9 (4) the secretary of social and rehabilitation services or the sec-
10 retary's designee;

11 (5) any law enforcement officer; or

12 (6) the attorney of the proposed patient.

13 (d) The notice shall be served personally on the proposed patient
14 and the attorney appointed pursuant to K.S.A. 59-2914 and amend-
15 ments thereto as soon as possible, but not less than 10 days prior
16 to the date of the hearing, and immediate return thereof shall be
17 made. Unless otherwise ordered by the court, notice shall be served
18 on the proposed patient by a nonuniformed person. Notice to all
19 other persons shall be made in the manner directed by the court,
20 but such notice shall not be given less than 10 days prior to the
21 date of the hearing.

22 Sec. 23. On April 1, 1991, K.S.A. 1989 Supp. 59-2917 is hereby
23 amended to read as follows: 59-2917. (a) The hearing shall be held
24 at the time and place specified in the court's order unless a contin-
25 uance as provided in K.S.A. 59-2914, 59-2916a or 59-2918, and
26 amendments thereto, has been granted. The hearing shall be held
27 to the court only, unless the proposed patient ~~shall~~, at least four
28 days prior to the time of the hearing, ~~demand~~ *demands* in writing
29 a hearing before a jury.

30 (b) The jury, if one is demanded, shall consist of six persons.
31 The jury panel shall be selected as provided by law and from such
32 panel 12 qualified jurors, who have been passed for cause, shall be
33 empaneled. Prior service as a juror in any court shall not *exempt*,
34 for that reason, ~~exempt~~ any person from jury service hereunder.
35 From the panel so obtained, the proposed patient or the proposed
36 patient's attorney shall strike one name; *then* the applicant, or the
37 applicant's attorney, *shall strike one name*; and so on alternately
38 until each ~~shall have~~ *has* stricken three names. If either party
39 neglects or refuses to aid in striking the names, the court shall strike
40 a name on behalf of such party. If 12 qualified jurors cannot be so
41 empaneled, the court shall draw from such panel or list, by lot,
42 sufficient additional names to empanel 12 qualified jurors.

43 (c) The applicant and the proposed patient shall be afforded an

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1 opportunity to appear at the hearing, to testify, and to present and
2 cross-examine witnesses. All persons not necessary for the conduct
3 of the proceedings may be excluded. The hearings shall be conducted
4 in as informal a manner as may be consistent with orderly procedure
5 and in a physical setting not likely to have a harmful effect on the
6 proposed patient. The court shall receive all relevant and material
7 evidence which may be offered, including the testimony or written
8 findings and recommendations of the treatment facility or examiner
9 who has examined or evaluated the proposed patient and the tes-
10 timony or written findings and recommendations of the investigator
11 appointed pursuant to K.S.A. 59-2914 and amendments thereto. Such
12 evidence shall not be privileged for the purpose of this hearing.

13 (d) The rules governing evidentiary and procedural matters at
14 hearings under this section shall be applied so as to facilitate informal,
15 efficient presentation of all relevant, probative evidence and reso-
16 lution of issues with due regard to the interests of all parties.

17 (e) If the applicant is not represented by counsel, the county or
18 district attorney shall represent the applicant, prepare all necessary
19 papers, appear at the hearing and present such evidence as the
20 county or district attorney shall determine to be of aid to the court
21 in determining whether the proposed patient is a mentally ill person.

22 (f) Upon the completion of the hearing, if the court or jury finds
23 by clear and convincing evidence that the proposed patient is a
24 mentally ill person, the court shall order treatment for such person
25 at a treatment facility, *except that the court shall not order treatment*
26 *at a state psychiatric hospital unless the court has received a written*
27 *recommendation for treatment at a state psychiatric hospital from*
28 *a qualified mental health professional.* An order for treatment in a
29 treatment facility, except a state psychiatric hospital, shall be con-
30 ditioned upon the consent of such *treatment* facility.

31 (g) When the court orders treatment, it shall retain jurisdiction
32 to modify, change or terminate such order.

33 (h) If, upon the completion of the hearing the court or jury finds
34 by clear and convincing evidence that the proposed patient is a
35 mentally ill person has not been shown, the court shall enter the
36 finding in the record and by an appropriate order shall terminate
37 the proceedings.

38 Sec. 24. On April 1, 1991, K.S.A. 1989 Supp. 59-2918 is hereby
39 amended to read as follows: 59-2918. (a) The proposed patient, at
40 any time prior to the hearing provided for in K.S.A. 59-2917 and
41 amendments thereto, may request, in writing, that the hearing be
42 continued for 90 days so that the court may make an order of referral
43 for short-term treatment. Upon receipt of such a request, the court

1 may refer the proposed patient for a period of time not to exceed
2 90 days, for short-term treatment, to any treatment facility. An order
3 of referral for treatment in any treatment facility, ~~except a state~~
4 ~~psychiatric hospital~~, shall be conditioned upon the consent of such
5 treatment facility, *except that no order of referral for treatment in*
6 *a state psychiatric hospital shall be entered unless the court has*
7 *received a written recommendation for such admission from a qual-*
8 *ified mental health professional.* The court may not issue an order
9 of referral unless the attorney representing the proposed patient has
10 filed a statement, in writing, stating that the attorney has explained
11 to the proposed patient the nature of the order of referral and the
12 right to a hearing before a court or jury to determine whether the
13 proposed patient is a mentally ill person.

14 (b) Any proposed patient who has been referred for short-term
15 treatment under this section may be accepted for voluntary admission
16 in a treatment facility pursuant to K.S.A. 59-2905 and amendments
17 thereto. When the proposed patient has been admitted as a voluntary
18 patient, the treatment facility shall file written notice of the patient's
19 acceptance as a voluntary patient in the court which had ordered
20 the referral. The filing of such notice shall constitute a dismissal of
21 the pending application to determine whether the proposed patient
22 is a mentally ill person.

23 (c) Unless the proposed patient has been accepted as a voluntary
24 patient by a treatment facility, the facility treating the proposed
25 patient, not later than 14 days prior to the expiration date of the
26 referral period, shall file a written report of its findings and rec-
27 ommendations with the court. The court shall then set the date for
28 the hearing provided for in K.S.A. 59-2917 and amendments thereto.
29 Such hearing date shall not be later than the expiration date of the
30 referral, unless continued at the proposed patient's request.

31 Sec. 25. On April 1, 1991, K.S.A. 1989 Supp. 59-2918a is hereby
32 amended to read as follows: 59-2918a. (a) Following the hearing on
33 the petition as provided for in K.S.A. 59-2917 and amendments
34 thereto, or prior to the entry of an order provided for in K.S.A. 59-
35 2918 and amendments thereto, if the court finds that the proposed
36 patient is a mentally ill person, the court, as an alternative to in-
37 patient treatment, may enter an order for outpatient treatment at a
38 ~~community~~ mental health center or other private treatment facility
39 capable of providing outpatient care. Such an order for outpatient
40 treatment may be entered by the court only if the court finds that
41 outpatient treatment will not constitute a danger to the community
42 and that the patient is not likely to cause harm to self or others
43 while under outpatient treatment. In considering this issue the court

1 shall take into consideration all relevant factors, including but not
2 limited to, the degree of supervision and type of outpatient treatment
3 proposed and available, the preferences of the patient and the degree
4 of security to the community provided for under outpatient
5 treatment.

6 (b) No order for outpatient treatment shall be entered unless the
7 outpatient treatment facility has consented to treat the patient on
8 an outpatient basis under the terms and conditions set forth by the
9 court, *except that no order for outpatient treatment shall be refused*
10 *by a participating mental health center.*

11 (c) If outpatient treatment is ordered, the order shall state the
12 specific conditions to be followed by the patient and shall include
13 the general condition that the patient shall follow all directives and
14 treatment methods established by the head of the treatment facility
15 or the head's designee. The court shall also make such orders as are
16 appropriate to provide for transportation to the outpatient treatment
17 facility, for the transfer of the copies of the patient's records to the
18 outpatient *treatment* facility and provisions for monitoring the pro-
19 posed patient's progress and compliance with outpatient treatment.

20 (d) (1) The court shall retain jurisdiction to modify or revoke its
21 order for outpatient treatment at any time on its own motion, on
22 the motion of any counsel of record or upon notice from the treat-
23 ment facility of any need for new conditions in the order for out-
24 patient treatment or of material noncompliance by the patient with
25 the order for outpatient treatment. Revocation or modification may
26 be ordered by *ex parte* order or by order of the court after notice
27 and hearing.

28 (2) The treatment facility shall immediately report to the court
29 any material noncompliance by the patient with the outpatient treat-
30 ment order. Such notice may be verbal or by telephone but shall
31 be followed by a verified written notice to the court and to counsel
32 for all parties. Upon receipt of telephone, verbal or written verified
33 notice of noncompliance, the court may enter an *ex parte* order of
34 protective custody revoking the outpatient treatment order and pro-
35 viding for immediate commitment of *the patient* to an inpatient
36 treatment facility.

37 (3) After the entry of an *ex parte* order revoking or modifying
38 the order for outpatient treatment, a copy of the order shall be
39 served upon the patient and the patient's attorney. Any party to the
40 matter, including the petitioner, the state or the patient may request
41 a hearing on the matter if the request is filed within five days from
42 the date of service of the *ex parte* order upon the patient. The court
43 may also order such a hearing on its own motion within five days

1 from the date of service of the notice. If no request or order for
 2 hearing is filed within the five-day period, the *ex parte* order shall
 3 become the final order of the court. If a hearing is requested, a
 4 written motion for revocation or modification of the outpatient treat-
 5 ment order shall be filed by the state or the petitioner and a hearing
 6 shall be held thereon within five days after the filing of the motion.
 7 If upon hearing the court finds that the conditions of the outpatient
 8 treatment order have not been met, the court may enter an order
 9 for inpatient treatment or may continue the order for outpatient
 10 treatment with different terms and conditions *in accordance with*
 11 *this section.*

12 (e) The outpatient treatment facility shall comply with the pro-
 13 visions of K.S.A. ~~1986~~ 1989 Supp. 59-2919a and amendments thereto
 14 concerning filing of medical records summaries each 90 or 180 days
 15 during the time the outpatient treatment order is in effect and the
 16 court shall receive and process such reports in the same manner as
 17 reports received from an inpatient treatment facility.

18 Sec. 26. On April 1, 1991, K.S.A. 1989 Supp. 59-2924 is hereby
 19 amended to read as follows: 59-2924. (a) The secretary of social and
 20 rehabilitation services or the secretary's designee may transfer any
 21 patient from any state psychiatric hospital under the secretary's con-
 22 trol to any other state psychiatric hospital whenever the secretary
 23 or the secretary's designee considers it to be in the best interests
 24 of the patient. Except in the case of an emergency, the patient's
 25 next of kin or guardian, if one has been appointed, shall be notified
 26 of the transfer, and notice shall be sent to the committing court not
 27 less than 14 days before the proposed transfer. The notice shall state
 28 the location to which the transfer is proposed and state that, upon
 29 request of the next of kin or guardian, an opportunity for a hearing
 30 on the proposed transfer will be provided by the secretary of social
 31 and rehabilitation services prior to such transfer.

32 (b) The secretary of social and rehabilitation services or the de-
 33 signee of the secretary may transfer any involuntary patient from
 34 any state psychiatric hospital to any state institution for the mentally
 35 retarded whenever the secretary of social and rehabilitation services
 36 or the designee of the secretary considers it to be in the best interests
 37 of the patient. Any patient transferred as provided in this subsection
 38 shall remain subject to the same statutory provisions as were ap-
 39 plicable at the hospital from which the patient was transferred and
 40 in addition thereto shall abide by and be subject to all the rules
 41 and regulations of the institution to which the patient has been
 42 transferred. Except in the case of an emergency, the patient's next
 43 of kin or guardian, if one has been appointed, shall be notified of

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1 the transfer, and notice shall be sent to the committing court not
 2 less than 14 days before the proposed transfer. The notice shall state
 3 the location to which the transfer is proposed and state that, upon
 4 request of the next of kin or guardian, an opportunity for a hearing
 5 on the proposed transfer will be provided by the secretary of social
 6 and rehabilitation services prior to such transfer. No involuntary
 7 patient shall be transferred from a state psychiatric hospital to a state
 8 institution for the mentally retarded unless the superintendent of
 9 the receiving institution has found that the patient is mentally re-
 10 tardated and in need of care and training and that placement in the
 11 institution is the least restrictive alternative available. Nothing in
 12 this subsection shall prevent the secretary of social and rehabilitation
 13 services or the designee of the secretary from allowing a person to
 14 be admitted as a voluntary resident to a state institution for the
 15 mentally retarded, or from discharging such person from a state
 16 psychiatric hospital.

17 (c) When any proposed patient or involuntary patient has been
 18 ordered to any treatment facility pursuant to K.S.A. 59-2909, 59-
 19 2912, 59-2917 or 59-2918, and amendments thereto, the head of the
 20 treatment facility shall discharge the patient when the patient is no
 21 longer in need of treatment in the facility, *except that no patient*
 22 *shall be discharged from a state psychiatric hospital without receiving*
 23 *recommendations from the participating mental health center, if any,*
 24 *servng the area where the patient intends to reside.* The head of
 25 the treatment facility shall review and investigate all applications for
 26 involuntary admission and, if appropriate, shall divert patients to
 27 less restrictive treatment alternatives before further judicial pro-
 28 ceedings occur whenever it is deemed appropriate by the head of
 29 the treatment facility. If diversion from involuntary treatment is not
 30 appropriate, the head of the treatment facility should be prepared
 31 to present evidence at the next hearing scheduled for the patient
 32 concerning further need for involuntary treatment.

33 (d) The head of the treatment facility may release any involuntary
 34 patient who has been committed for treatment pursuant to K.S.A.
 35 59-2917 or 59-2918, and amendments thereto, on conditional release
 36 when the head of the treatment facility believes that (1) the release
 37 is in the best interests of the patient and (2) the patient is not likely
 38 to cause harm to self or others as long as the patient continues a
 39 plan of treatment in the community. The treatment facility shall
 40 formulate a plan of treatment for each patient released on conditional
 41 release. The plan of treatment may include any conditions which
 42 the head of the treatment facility considers to be in the best interests
 43 of the patient or necessary to ensure that the patient is not likely

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1 to cause harm to self or others. The conditions may include a re-
2 quirement that the patient be supervised by and report to a treat-
3 ment facility which shall be responsible for ensuring that the patient
4 complies with the conditions. The treatment facility in the com-
5 munity shall inform the head of the treatment facility from which
6 the patient was discharged of any material noncompliance with the
7 treatment plan. The head of the treatment facility from which the
8 patient is released may change the plan of treatment or the conditions
9 specified in the plan whenever the head considers it to be in the
10 best interests of the patient or necessary to ensure that the patient
11 is not likely to cause harm to self or others. If the patient fails to
12 comply with any conditions of the treatment plan, the head of the
13 facility may revoke the release and order the patient readmitted to
14 the facility. The head of the treatment facility may authorize and
15 order a law enforcement officer or other person to take into custody
16 and transport the patient to a treatment facility.

17 Prior to the end of the 120 days on conditional release, and not
18 less often than each 120 days thereafter while a patient is on con-
19 ditional release, the head of the treatment facility from which the
20 patient is released shall reexamine the facts relating to the treatment
21 of the patient on conditional release.

22 (e) The head of the treatment facility shall not discharge an in-
23 voluntary patient from conditional release unless at least seven days'
24 notice of the intention to discharge the patient is given to the pa-
25 tient's guardian, if any, and to any other treatment facility which is
26 involved in the treatment plan for the patient.

27 (f) Nothing in this section shall be construed to amend or modify
28 or repeal any law relating to the confinement of persons charged
29 with or convicted of a criminal offense.

30 New Sec. 27. ~~State~~ psychiatric hospitals and their officers and
31 employees, and participating mental health centers and their officers
32 and employees, except for gross or wanton negligence, shall be
33 immune from all civil liability arising out of a decision refusing
34 admission of a person to, or discharging or conditionally releasing a
35 person from any treatment facility, or providing treatment for a
36 patient pursuant to an order for outpatient treatment. Under no
37 circumstances shall any officer or employee of a state psychiatric
38 hospital or participating mental health center performing actions pur-
39 suant to the treatment act for mentally ill persons have a duty to,
40 or be liable for failure to notify, advise or warn anyone concerning
41 the nonadmission, transfer or removal of restrictions on discharge of
42 any person absent a showing of gross or wanton negligence.

43 Sec. 28. On April 1, 1991, K.S.A. 65-211 is hereby amended to

New Sec. 28. (a) On and after April 1, 1991, no patient shall be admitted to a state psychiatric hospital pursuant to any of the provisions of the treatment act for mentally ill persons, including any court-ordered admissions, if the secretary has notified the supreme court of the state of Kansas and each district court, which has jurisdiction over all or part of the area served by the state psychiatric hospital, that the required program of the state psychiatric hospital has reached capacity and no more patients may be admitted. Following notification that a state psychiatric hospital program has reached its capacity and no more patients may be admitted, any district court, which has jurisdiction over all or part of the area served by such state psychiatric hospital, and any participating mental health center, which serves all or part of the same area, may request that patients be placed on a waiting list maintained by the state psychiatric hospital.

(b) In each such case, as each vacancy at the state psychiatric hospital occurs, the district court and participating mental health center shall be notified, in the order of their previous requests for placing a patient on the waiting list, that a patient may be admitted to the state psychiatric hospital. As soon as the state psychiatric hospital is able to admit patients on a regular basis to a program for which notice has been given under this section, the superintendent of the state psychiatric hospital shall inform the supreme court and each affected district court that the moratorium on admissions is no longer necessary.

(c) The provisions of this section shall be effective on and after April 1, 1991, and shall apply to those state psychiatric hospitals included in the mental health reform phased program, as defined by section 2 and amendments thereto.

, which occurs on or after April 1, 1991

on or after April 1, 1991,

And by renumbering sections accordingly

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1 read as follows: 65-211. (a) In all counties wherein there is established
 2 a joint board of health pursuant to K.S.A. 65-205, and amendments
 3 thereto, the governing bodies of the municipalities involved may by
 4 resolution adopted by each of the governing bodies, provide for the
 5 establishment of a mental health clinic for the diagnosis and treat-
 6 ment of mental illness. If established, the mental health clinic shall
 7 be operated by and be subject to the jurisdiction of such joint board
 8 of health to the same extent as other public health services provided
 9 thereby. *The joint board of health shall appoint a mental health*
 10 *advisory board of not less than seven members. Members of the*
 11 *mental health advisory board shall include, ~~as nearly as possible,~~*
 12 *~~one or more~~ family members of mentally ill persons ~~and represen-~~*
 13 *~~tatives of mental health consumer groups~~. The joint board of health*
 14 shall establish a schedule of charges for services and medications to
 15 persons using the mental health clinic, but no person shall be denied
 16 the services and medications of the clinic because of inability to pay
 17 for the same. The mental health clinic also shall provide facilities
 18 for patients paroled thereto by lawfully constituted authority. All
 19 moneys received for services and medications rendered hereunder
 20 shall be applied on and used to finance the budget of the joint board
 21 of health. If the governing bodies of the municipalities involved
 22 hereunder determine by resolution adopted by each of the governing
 23 bodies that it is more practicable to contract for such mental health
 24 services and medications with a nonprofit corporation, then and in
 25 that event the joint board of health shall contract with a nonprofit
 26 corporation to provide mental health services hereunder. *The gov-*
 27 *erning body of any such nonprofit corporation shall include, ~~as~~*
 28 *~~nearly as possible, one or more~~ family members of mentally ill per-*
 29 *~~sons and representatives of mental health consumer groups~~. The*
 30 nonprofit corporation ~~may~~ shall not deny service or medication to
 31 anyone because of inability to pay for the same, but the nonprofit
 32 corporation may establish a schedule of charges for those who are
 33 financially able to pay for such services or medication. The nonprofit
 34 corporation annually shall provide the joint board of health with a
 35 complete financial report showing the amount of fees collected, the
 36 amount of tax money received under the contract, and any other
 37 income. The report also shall show any other disbursements, in-
 38 cluding salaries paid to each person employed by the nonprofit
 39 corporation.

consumers of mental health services and

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40 (b) In lieu of contracting with a nonprofit corporation to provide
 41 mental health services, the governing bodies of municipalities which
 42 have established a joint board of health pursuant to K.S.A. 65-205,
 43 and amendments thereto, may establish a joint board of mental health

1 for the purpose of authorizing such board to contract for and on
 2 behalf of the governing bodies of the municipalities with a nonprofit
 3 corporation to provide mental health services. *The governing body*
 4 *of any such nonprofit corporation shall include* ~~as nearly as possible,~~
 5 ~~one or more~~ *family members of mentally ill persons* ~~and represen-~~
 6 ~~tatives of mental health consumer groups.~~ Members of the joint board
 7 of mental health shall be appointed in the same manner as members
 8 are appointed to the joint board of health. Any joint board of mental
 9 health which is authorized to contract with a nonprofit corporation
 10 under this subsection is hereby authorized to pay the amount agreed
 11 upon in such contract with a nonprofit corporation from the proceeds
 12 of the tax levied pursuant to K.S.A. 65-212, and amendments thereto,
 13 for mental health services.

14 Sec. 29. On April 1, 1991, K.S.A. 65-213 is hereby amended to
 15 read as follows: 65-213. (a) In all counties having a population of
 16 more than ~~twenty thousand (20,000)~~ 20,000 and less than ~~twenty-~~
 17 ~~two thousand (22,000)~~ 22,000, and having an assessed tangible
 18 valuation of more than ~~forty million dollars (\$40,000,000)~~
 19 \$40,000,000, wherein there has been established a county hospital,
 20 the board of county commissioners of such county may, by resolution,
 21 provide for the establishment of a mental health clinic for the di-
 22 agnosis and treatment of mental illness, which mental health clinic,
 23 when so established, shall be operated by; and subject to the ju-
 24 risdiction of, a board of trustees consisting.

25 (b) *The board of trustees shall consist of five (5) citizens who*
 26 *shall be appointed by said the board of county commissioners with*
 27 *reference to their fitness for such office, all residents of the county,*
 28 *not more than three (3) of said members to shall be residents of*
 29 *the city in which said the hospital is located. In addition, the board*
 30 *of trustees shall include* ~~as nearly as possible, one or more~~ *family*
 31 *members of mentally ill persons* ~~and representatives of mental health~~
 32 ~~consumer groups.~~

33 *Said (c) The members shall be appointed initially to hold their*
 34 *office as follows, three (3) for four (4) years and two (2) for two (2)*
 35 *years, and, thereafter, each subsequent two (2) years, the said board*
 36 *of county commissioners shall appoint, for four (4) year four-year*
 37 *terms, successors to such members whose terms have expired.*

38 Sec. 30. On April 1, 1991, K.S.A. 1989 Supp. 65-4434 is hereby
 39 amended to read as follows: 65-4434. (a) Subject to the provisions
 40 of appropriation acts and the provisions of K.S.A. 1987 1989 Supp.
 41 65-4436 and amendments thereto, the secretary shall make grants in
 42 accordance with this section to mental health centers as provided
 43 in this section which are providing the basic level of services in

consumers of mental health services and

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1 *the service delivery area as required under subsection (f).*

2 (b) (1) For the fiscal year ending June 30, 1989, the secretary
3 shall make grants under this section to each mental health center,
4 which is providing the basic level of services prescribed under sub-
5 section (f), as provided in this subsection. Subject to the other pro-
6 visions of this subsection (b), the grants to each mental health center
7 shall be based upon the total of:

8 (A) The mental health center's base grant which shall be the
9 greater of either (i) the amount equal to the grant payments received
10 by the mental health center under this section for the previous fiscal
11 year or (ii) the amount computed on the basis of \$3.27 multiplied
12 by the number of residents in the service area of the mental health
13 center as of July 1, 1985, as certified by the division of the budget
14 of the department of administration to the secretary of state in July
15 of, 1986, plus

16 (B) each mental health center's pro rata share of any additional
17 moneys, including any inflation adjustments, appropriated for such
18 purpose in accordance with the base grant amounts so determined.

19 (2) If appropriations have been reduced from the previous fiscal
20 year, the secretary shall prorate the available moneys based upon
21 the grant payments received by mental health centers for the fiscal
22 year ending June 30, 1988.

23 (c) For the fiscal year ending June 30, 1990, and for subsequent
24 fiscal years, the secretary shall make grants to mental health centers
25 *as provided in this section*, which are providing the basic level of
26 services as prescribed under subsection (f) based upon the grant
27 payments received by *or for* each mental health center for the
28 previous fiscal year plus each mental health center's pro rata share
29 of any increase in moneys, including any inflation adjustments, ap-
30 propriated for such purpose, in accordance with the grant payments
31 received by *or for* the mental health center for the previous fiscal
32 year. If appropriations have been reduced from the previous fiscal
33 year, the secretary shall prorate the available moneys based upon
34 the grant payments *for* each center *which were* received during such
35 fiscal year.

36 (d) At the beginning of each fiscal year, the secretary shall de-
37 termine the amount of state funds due under this section to each
38 mental health center which has applied for such funds and which is
39 providing the basic level of services as prescribed under subsection
40 (f). The secretary, with the consent of the governing board of a
41 mental health center, may withhold funds that would otherwise be
42 allocated to the mental health center and use the funds to match
43 other funds for the purchase of services for the mental health center.

1 Any funds withheld that are not used to purchase services in the
2 various mental health centers shall be allocated to the mental health
3 center from which such funds were originally withheld. In any case
4 where a mental health center is not providing or has failed to con-
5 tinue providing the basic level of services as prescribed under sub-
6 section (f), the secretary shall withhold all or part of any grant
7 otherwise payable to the mental health center, as warranted by the
8 circumstances, until any deficiencies are corrected and the mental
9 health center is providing such basic level of services.

10 (e) The state funds due under this section to each mental health
11 center applying therefor shall be paid in four quarterly installments
12 if it is providing the basic level of services prescribed under sub-
13 section (f). The moneys received in any quarter may be used at any
14 time during the year. Installments shall be paid as follows: (1) On
15 July 1st for the quarter beginning July 1 and ending September 30;
16 (2) on October 1st for the quarter beginning October 1 and ending
17 December 31; (3) on January 1st for the quarter beginning January
18 1 and ending March 31; and (4) on April 1st for the quarter beginning
19 April 1 and ending June 30.

20 (f) ~~On or after July 1, 1989,~~ The secretary shall adopt rules
21 and regulations prescribing the basic level of services to be provided
22 by mental health centers, including criteria prescribing such services
23 in terms of types of services provided and minimum staffing levels
24 therefor.

25 (g) In order to be eligible for grants under this section or for
26 special purpose grants under K.S.A. 1989 Supp. 65-4435 and amend-
27 ments thereto, each mental health center shall have a governing
28 body which includes ~~as nearly as possible, one or more~~ family
29 members of mentally ill persons ~~and representatives of mental health~~
30 ~~consumer groups~~, except that, if the governing body of a mental
31 health center is the board of county commissioners, such mental
32 health center shall have a local advisory committee which includes
33 ~~as nearly as possible, representatives of such persons and groups~~

consumers of mental health services and

consumers of mental health services and family members of mentally ill persons

34 Sec. 31. On April 1, 1991, K.S.A. 1989 Supp. 65-5603 is hereby
35 amended to read as follows: 65-5603. (a) The privilege established
36 by K.S.A. ~~1988~~ 1989 Supp. 65-5602 and amendments thereto shall
37 not extend to:

38 (1) Any communication relevant to an issue in proceedings to
39 involuntarily commit to treatment a patient for mental illness, al-
40 colism or drug dependency if the treatment personnel in the
41 course of diagnosis or treatment has determined that the patient is
42 in need of hospitalization;

43 (2) an order for examination of the mental, alcoholic, drug de-

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1 pendency or emotional condition of the patient which is entered by
2 a judge, with respect to the particular purpose for which the ex-
3 amination is ordered;

4 (3) any proceeding in which the patient relies upon any of the
5 aforementioned conditions as an element of the patient's claim or
6 defense, or, after the patient's death, in any proceeding in which
7 any party relies upon any of the patient's conditions as an element
8 of a claim or defense;

9 (4) any communication which forms the substance of information
10 which the treatment personnel or the patient is required by law to
11 report to a public official or to be recorded in a public office, unless
12 the statute requiring the report or record specifically provides that
13 the information shall not be disclosed;

14 (5) any information necessary for the emergency treatment of a
15 patient or former patient if the head of the treatment facility at
16 which the patient is being treated or was treated states in writing
17 the reasons for disclosure of the communication and makes such
18 statement a part of the treatment or medical record of the patient;

19 (6) information relevant to protect a person who has been threat-
20 ened with substantial physical harm by a patient during the course
21 of treatment, when such person has been specifically identified by
22 the patient, the treatment personnel believes there is substantial
23 likelihood that the patient will act on such threat in the reasonable
24 foreseeable future and the head of the treatment facility has con-
25 cluded that notification should be given. The patient shall be notified
26 that such information has been communicated;

27 (7) any information from a state psychiatric hospital to appropriate
28 administrative staff of the department of corrections whenever pa-
29 tients have been administratively transferred to a state psychiatric
30 hospital pursuant to the provisions of K.S.A. 75-5209 and amend-
31 ments thereto;

32 (8) any information to the patient or former patient, except that
33 the head of the treatment facility at which the patient is being treated
34 or was treated may refuse to disclose portions of such records if the
35 head of the treatment facility states in writing that such disclosure
36 will be injurious to the welfare of the patient or former patient;

37 (9) any information to any state or national accreditation, certi-
38 fication or licensing authority, or scholarly investigator, but the head
39 of the treatment facility shall require, before such disclosure is made,
40 a pledge that the name of any patient or former patient shall not
41 be disclosed to any person not otherwise authorized by law to receive
42 such information;

43 (10) any information to Kansas advocacy and protective services,

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1 inc. which concerns individuals who reside in a treatment facility
2 and which is required by federal law and federal rules and regulations
3 to be available pursuant to a federal grant-in-aid program;

4 (11) any information relevant to the collection of a bill for profes-
5 sional services rendered by a treatment facility; or

6 (12) any information sought by a coroner serving under the laws
7 of Kansas when such information is material to an investigation or
8 proceeding conducted by the coroner in the performance of such
9 coroner's official duties. Information obtained by a coroner under
10 this provision shall be used for official purposes only and shall not
11 be made public unless admitted as evidence by a court or fo: pur-
12 poses of performing the coroner's statutory duties; or

13 (13) ~~any communication and information between a state psy-~~
14 ~~chiatric hospital and a participating mental health center for pur-~~
15 ~~poses of promoting continuity of care in the hospital during treatment~~
16 ~~and in the community following discharge or conditional release; the~~
17 ~~proposed patient, patient, or former patient's consent shall not be~~
18 ~~necessary to share evaluation and treatment records between a state~~
19 ~~psychiatric hospital and a participating mental health center; the~~
20 ~~words and phrases used in this paragraph (13) shall have the mean-~~
21 ~~ings respectively ascribed thereto in K.S.A. 59-2902 and amendments~~
22 ~~thereto.~~

23 (b) The treatment personnel shall not disclose any information
24 subject to subsection (a)(3) unless a judge has entered an order
25 finding that the patient has made such patient's condition an issue
26 of the patient's claim or defense. The order shall indicate the parties
27 to whom otherwise confidential information must be disclosed.

28 Sec. 32. On April 1, 1991, K.S.A. 19-4002, 19-4002a, 19-4002b,
29 59-2905, 65-211, 65-213 75-3302d and 75-3302e and K.S.A. 1989
30 Supp. 59-2901, 59-2902, 59-2908, 59-2912, 59-2914, 59-2914a, 59-
31 2916, 59-2917, 59-2918, 59-2918a, 59-2924, 65-4434 and 65-5603 are
32 hereby repealed.

33 Sec. 33. This act shall take effect and be in force from and after
34 July 1, 1990, and its publication in the statute book.

treatment facilities ok
or among ~~psychiatric hospitals and community mental health centers~~ regarding a
proposed patient, patient or former patient; as used in this paragraph (13),
"proposed patient" and "patient"

treatment facilities ok
or among ~~psychiatric hospitals and community mental health centers~~ regarding a
proposed patient, patient or former patient

psychiatric

~~and 59-2901~~

See attached

59-2907,

59-2909,

And renumber accordingly

11-33

Sec. 33. On April 1, 1991, K.S.A. 1989 Supp. 59-2907 is hereby amended to read as follows: 59-2907. (a) The head of a treatment facility shall discharge a voluntary patient within a reasonable time but not to exceed three days, excluding Saturdays, Sundays and legal holidays, after the receipt of such patient's written request for discharge. No patient shall be discharged from a state psychiatric hospital without receiving recommendations from the participating mental health center, if any, serving the area where the patient intends to reside, except that such patient shall be discharged within a reasonable time of not to exceed three days, excluding Saturdays, Sundays and legal holidays, after the receipt of such patient's written request for discharge. If the voluntary patient is a minor, the written request for discharge shall be made by the minor's parent or person in loco parentis unless the minor made written application to become a voluntary patient on the minor's own behalf. If a minor 14 or more years of age has made written application to become a voluntary patient on the minor's own behalf and has requested to be discharged, the head of the treatment facility shall promptly inform the minor's parent or other person in loco parentis of the request.

(b) Nothing in this act shall prevent the head of the treatment facility or other person from filing an application for determination of mental illness with respect to a voluntary patient who is refusing reasonable treatment efforts and is likely to cause harm to self or others if discharged.

Sec. 34. On April 1, 1991, K.S.A. 1989 Supp. 59-2909 is hereby amended to read as follows: 59-2909. (a) A treatment facility may admit and detain any person for emergency observation and treatment upon an order of protective custody issued by a district court pursuant to K.S.A. 59-2912 and amendments thereto.

(b) A treatment facility may admit and detain any person for emergency observation and treatment upon written application of any law enforcement officer having custody of any person pursuant to K.S.A. 59-2908 and amendments thereto. , except that no person shall be admitted to a state psychiatric hospital for emergency observation and treatment unless a written statement recommending the emergency observation and treatment at a state psychiatric hospital has been obtained from a qualified mental health professional. The application shall state:

- (1) The name and address of the person, if known;
- (2) the name and address of the person's spouse or nearest relative, if known;
- (3) the officer's belief that the person is a mentally ill person and because of the person's illness is likely to cause harm to self or others if not immediately detained;
- (4) the factual circumstances under which the person was taken into custody; and
- (5) the fact that the law enforcement officer will submit the application provided for in subsection (a) of K.S.A. 59-2912 and amendments thereto, by 5:00 p.m. of the next full day that the district court is open for the transaction of business or that the officer has been informed by a parent, guardian or other person in loco parentis to the person taken into custody that such parent, guardian or other person, whose name shall be stated in the application, will file the application provided for in subsection (b) of K.S.A. 59-2912 and amendments thereto within that time.

(c) A treatment facility may admit and detain any person for emergency observation and treatment upon the written application of any individual, except that a state psychiatric hospital shall

not admit and detain any such person without a written statement authorizing such admission from a qualified mental health professional. The application shall state:

- (1) The name and address of the person, if known;
- (2) the name and address of the person's spouse or nearest relative, if known;
- (3) the applicant's belief that the person is a mentally ill person and because of the person's illness is likely to cause harm to self or others if not immediately detained;
- (4) the circumstances in support of that belief; and
- (5) the fact that the applicant will submit the application provided for in subsection (b) of K.S.A. 59-2912 and amendments thereto by 5:00 p.m. of the next full day that the district court is open for transaction of business.

(d) Application of an individual under subsection (c) shall be accompanied by a statement in writing of a physician or psychologist confirming the existence of the described condition of the person and, upon the filing of the application, the head of the treatment facility or the designee of the head of the treatment facility may authorize and order in writing any law enforcement officer or other person to take into custody and transport the person to the treatment facility, except that no person shall be transported to a state psychiatric hospital under this subsection unless a written statement recommending that the person be transported to a state psychiatric hospital has been obtained from a qualified mental health professional.

(e) Any treatment facility or personnel thereof who in good faith render treatment in accordance with law to any person admitted pursuant to subsection (b) or (c), shall not be liable in a civil or criminal action based upon a claim that the treatment was rendered without legal consent.

HOUSE BILL No. 2859

By Representatives Adam, Fuller, Jenkins and Wagnon

2-7

9 AN ACT establishing the heritage trust fund; providing for the pur-
10 pose of expenditures from such trust fund; increasing the mortgage
11 registration fee and providing for payment of a portion of such
12 fee to the heritage trust fund; amending K.S.A. 79-3102 and re-
13 pealing the existing section.

14
15 *Be it enacted by the Legislature of the State of Kansas:*

16 New Section 1. (a) The county treasurer shall pay quarterly to
17 the state treasurer, commencing on October 1, 1990, ~~4% of all~~
18 ~~moneys, to the nearest dollar,~~ paid to the county treasurer during
19 the preceding calendar quarter from mortgage registration fees under
20 K.S.A. 79-3101 to 79-3107, inclusive, and amendments thereto, and
21 credited to the county general fund under K.S.A. 79-3104 and
22 amendments thereto. All such moneys paid to the state treasurer
23 shall be deposited in the state treasury and credited to the heritage
24 trust fund.

[\$.01 of each \$.26

25 New Sec. 2. (a) There is hereby established in the state treas-
26 ury the heritage trust fund. All moneys deposited in the heritage
27 trust fund shall be used for the purpose of ~~historic preservation~~
28 ~~through the regulation of projects which encroach upon, damage or~~
29 ~~destroy historic property, for assisting private individuals with his-~~
30 ~~toric preservation projects~~ involving property included in the national
31 register of historic places or the state register of historic places ~~and~~
32 ~~for the administration of K.S.A. 75-2715 to 75-2725, inclusive, and~~
33 ~~amendments thereto.~~ The state historical society shall ensure that
34 such moneys are expended for the purpose of this section.

[assisting

[projects

, excluding property owned by the state or federal government, and shall be used by the state historical society for the administration of the heritage trust fund program

The state historical society may also provide grant assistance from moneys in the heritage trust fund on a matching basis and also may establish a revolving fund loan program from moneys in such fund.

, and may adopt rules and regulations as necessary to carry out this section

35 (b) On or before the 10th day of the month following the month
36 in which moneys are first credited to the heritage trust fund, and
37 monthly thereafter on or before the 10th day of the month, the
38 director of accounts and reports shall transfer from the state general
39 fund to the heritage trust fund the amount of money certified by
40 the pooled money investment board in accordance with this sub-
41 section. Prior to the 10th day of the month following the month in
42 which moneys are first credited to the heritage trust fund, and
43 monthly thereafter prior to the 10th day of the month, the pooled

5-2-90
H.A.
Attachment 12

Proposed Amended to House Bill No. 2859

Be amended on page 1, in line 25, by inserting after "(a)" the following: "(1)"; following line 34 by inserting the following:

"(2) In evaluating grant applications under subsection (a)(1), the state historical society shall consider the following factors: The level of historical significance of the property; the condition of the property; the urgency of the preservation work proposed; whether or not the property is endangered; the type of work proposed; a geographical distribution of assisted properties; the administrative ability of the applicant; the potential benefit to the community and the state; community support for the project; ineligibility of the project for other funds; and an assessment of the need of the owner for the grant assistance to do the project."

HA

3-2-90

Attachment 13